

White Paper on Education and Training

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Education and Training in a Democratic South Africa

First Steps to Develop a New System

Department of Education

Pretoria

February 1995

Message From the Minister Of Education, Professor S M E Bengu

Education and training are central activities of our society. They are of vital interest to every family and to the health and prosperity of our national economy. The government's policy for education and training is therefore a matter of national importance second to none.

South Africa has never had a truly national system of education and training, and it does not have

one yet. This policy document describes the process of transformation in education and training which will bring into being a system serving all our people, our new democracy, and our Reconstruction and Development Programme.

Our message is that education and training must change. It cannot be business as usual in our schools, colleges, technikons and universities. The national project of reconstruction and development compels everyone in education and training to accept the challenge of creating a system which cultivates and liberates the talents of all our people without exception.

My Ministry is acutely aware of the heavy responsibility it bears for managing the transformation and redirection of the system of education and training within the terms of the Constitution and under severe budgetary pressure. The national and provincial Ministers have worked together increasingly closely in the Council of Education Ministers. The provincial Ministers have been carrying an exceptional load since the beginning of 1995. They and their new departments need the people's understanding and support. For its part, the national Ministry will do all it can to assist.

The actual provision of education and training under the national and provincial Ministries of Education occurs primarily in the schools, colleges, technikons, and universities. These bear the direct responsibility for managing the teaching and learning process. This includes finding practical, educationally acceptable solutions for changes which are occurring as a result of the new Constitution and the policies of the new national and provincial governments. Their environment is one of considerable uncertainty, especially while the process of review and transformation of governance structures is still under way at all levels of the system.

Having myself been an educational manager at school, college and university levels, I wish to express a special word of understanding for all those who carry management responsibilities in the education and training system during this time of transition.

I wish also to thank and commend all other roleplayers and stakeholders in the system: teachers and other educators, students, parents, religious and other community leaders, education and training NGOs, and officials in the new education departments who are charged with spearheading change. Their collective energy, expertise and commitment are formidable resources for unifying and building our new system. Our watchword should be: Let us put the learners first. If we do, I have no doubt that the students of this country will respond magnificently.

This white paper was published in draft form for consultation. Media coverage was extensive, and the response from the South African public was heart-warming. Citizens, organisations and institutions took the trouble, under a tight deadline, to make their views known, and I thank them all. They have helped us to produce a better document. What is more, they have time and again expressed their wish to help find principled and practical solutions to our country's educational needs. With this spirit, we cannot fail.

The public hearings conducted by the joint National Assembly and Senate Select Committee on Education demonstrated the keen interest taken by my parliamentary colleagues in the white paper process. I thank them for their continued interest and advice, and all the organisations which made submissions to the committees' hearings.

I believe that the discussion of the draft document has marked the beginning of a national consensus on the way forward. That is what the country needs: a principled national accord on education and training which will provide a secure platform for change and development, for widening access and raising quality.

It is essential for us to build a system of education and training with which all our people can identify because it serves their needs and interests. Such a system must be founded on equity and non-discrimination, it must respect diversity, it must honour learning and strive for excellence, it must be owned and cared for by the communities and stakeholders it serves, and it must use all the resources available to it in the most effective manner possible.

This document is the first policy document on education and training by South Africa's first democratically elected government. As the title makes clear, it represents only our first steps on a long road. My hope is that it blazes the trail of opportunity and self-fulfilment for all our citizens.

Professor S M E Bengu, MP
Minister of Education

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Message From The Deputy Minister of Education, Mr R Schoeman

I believe that the approval of an education white paper by the Government of National Unity is an essential prerequisite for the creation of an education system which is acceptable to the majority of South Africans.

The ideal, namely "excellence in education for all" and the cultivation and liberation of the talents of every young South African, is still a long way off, but we are on our way!

The road we have to travel is an uphill and rocky one - a difficult one - but the fact of the matter is that we are, as a result of a Government of National Unity and an inclusive approach in the Ministry of Education, closer than ever before to reaching a truly national consensus on the way forward in respect of education. This will dramatically increase our chances of reaching the destination of relevant, affordable, non-discriminatory, quality education for all.

As a member of the Government of National Unity I very much look forward to working hard and with enthusiasm towards this goal, within the framework of the white paper on education and

training.

I sincerely hope that all South Africans will now put that which was negative in the past behind them (also in respect of education), and will use the opportunities presented by this white paper to the full, in their own interests and in the interests of South Africa. It is a wonderful chance for a fresh start in education - let's use it to the best advantage of our country.

Renier Schoeman, MP
Deputy Minister of Education

Abbreviations Used in the Text

ABET

Adult Basic Education and Training

AUT

University and Technikon Advisory Council

CBO

community-based organisation

CEM

Council of Education Ministers

CHED

(former) Committee of Heads of Education Departments

COTEP

Committee for Teacher Education Policy

CS

college/school

DET

(former) Department of Education and Training

ECD

Early Childhood Development

EMIS

Education Management Information System

ESS

Education Support Services

FEC

Further Education Certificate

FFC

Financial and Fiscal Commission

GDP

Gross Domestic Product

GEC

General Education Certificate

HEDCOM

Heads of Education Departments Committee

HOA

(former) House of Assembly

HOD

(former) House of Delegates

HOR

(former) House of Representatives

HSRC

Human Sciences Research Council

ICHED

(former) Interim Heads of Education Departments Committee

INSET

in-service education for teachers

LSEN

learners with special education needs

NCTE

National Council for Teacher Education

NGO

non-governmental organisation

NETF

National Education and Training Forum

NICD

National Institute for Curriculum Development

NICE

National Investigation into Community Education

NOLA

National Open Learning Agency

NQF

National Qualification Framework

OAU

Organisation of African Unity

RDP

Reconstruction and Development Programme

RSA

Republic of South Africa

SAQA

South African Qualifications Authority

SGT

(former) self-governing territories

TBVC

(former) Transkei, Boputhatswana, Venda, Ciskei states

VAT

value-added tax

UN

United Nations

Unesco

United Nations Educational, Scientific and Cultural Organisation

Unicef

United Nations Children's Fund

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A Note On Terminology: "Ministry" and "Department"

This document follows government practice in distinguishing between the Ministry of Education and the Department of Education.

The Ministry of Education comprises the Minister of Education, the Deputy Minister of Education, advisors and administrative staff.

In terms of the Constitution, a Minister is accountable personally to the President and Cabinet for the administration of his or her portfolio, and is required to administer the portfolio in accordance with the policy determined by Cabinet.

The Cabinet is required by the Constitution to "function in a manner which gives consideration to the consensus-seeking spirit underlying the concept of a government of national unity as well as the need for effective government". Thus Ministers are obliged to seek Cabinet approval for their policy proposals, such as this document, and to ensure that approved policy is effectively executed.

The Department of Education is part of the organisational structure of the public service, which is constitutionally required to "loyally execute the policies of the government of the day in the performance of its administrative functions".

The Department of Education is headed by the Director-General, who is responsible for the efficient management and administration of the department, and is accountable to Parliament for the funds voted to the department in the budget.

The Director-General is accountable to the Minister for the execution of policy, and in practice also makes available the professional resources of the department for the development of policy as directed by the Minister.

Part 1 - Introduction

Chapter One

The Purpose and Scope of This Document

A national Ministry of Education white paper

1. This document is a "white paper" which describes the first steps in policy formation by the Ministry of Education in the Government of National Unity. It
 - locates education and training within the national Reconstruction and Development Programme, and outlines the new priorities, values and principles for the education and training system
 - previews important developmental initiatives on which the Ministry of Education is engaged
 - discusses the implications of the new Constitution for the education system, especially in respect to Fundamental Rights
 - discusses the division of functions between national and provincial governments in the field of education and training
 - provides information about how the national and provincial departments of education are being established
 - analyses the budget process in education, and the necessity for a strategic approach to education funding in relation to the national priority for human resource development
 - discusses in detail two significant policy initiatives for the school system: the organisation, governance and funding of schools, and the approach to the provision of free and compulsory general education.
2. This document is published by the national Ministry of Education with the approval of Cabinet. In preparing it, the Ministry has enjoyed substantial cooperation from the provincial Ministries of Education, and appreciates their comments and suggestions.
3. Provincial Ministers of Education have indicated that they intend to publish provincial white papers on education. Provincial white papers will perform a vital service by sharpening the focus of debates on education policy within each province. Collectively they will make an increasingly significant contribution to the development of policy for the national system as a whole.

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Policy development and strategic plans in transition

4. The development of policy has been going on in the midst of the complete reorganisation of the national education system, the dismantling of the old education bureaucracy through the establishment of new national and provincial education departments, and the acceptance of legislative competence and executive authority by provincial governments. The whole system's capacity for policy development will increase rapidly as the new national and provincial education departments take shape, and a new structure of statutory consultative bodies and development agencies is brought into existence. New policy directions will be clarified by the major investigations and reviews which have either been launched by the Ministry or are in preparation, in areas which are crucial to the reconstruction and development of the education and training system.
5. Policy is important, but execution is more important. This document is not a plan, but target dates have been indicated for important development processes which are underway. The determination and costing of medium and long-term priorities is a major task for 1995, and will be reviewed and updated annually thereafter. The new provincial Departments of Education will be partners of the national department in this exercise, because they are responsible for developing the new provincially-based information system for all education except technikons and universities. A reliable information base is a crucial requirement for a trustworthy planning process, so the current state of transition is far from satisfactory, but even provisional planning work must proceed.
6. The reorganisation of the national budget system and its link to the RDP Fund affect the capacity of all departments to undertake financial planning, which is the basis of all responsible development. The proposed shift to zero-based budgeting and multi-year projections will provide the technical basis for the clarification of development strategy and the setting of priorities and implementation targets. However, the responsibility for planning, budgeting and executing provincial education development, except for the university and technikon sectors, rests with provincial governments. The national department will be working very closely with its provincial counterparts, in order to establish the planning and budgeting framework within which the education priorities of the Government of National Unity can be addressed.
7. The development of policy is a learning process. The Ministry of Education's policies will evolve, and they will be open to correction, not through trial and error, but on the basis of a variety of academic, professional and consultative sources of critique and advice. The national Ministry of Education will seek the cooperation of the provincial Ministries of Education, and the technikons and universities, in establishing well defined performance criteria, so that systematic internal and independent monitoring and evaluation can take place. Particular attention will be paid to the performance of the education and training system in the improvement of quality, equity, productivity (effectiveness) and efficiency.

The public response to the draft white paper

8. The vision, principles, broad lines of policy, and many specific initiatives which were

proposed in the draft version of this document have been generally endorsed by most individuals, bodies and institutions from whom written submissions were received. This revised document is therefore recognisably similar to the earlier version.

9. It is also different, however, because the Ministry of Education has tried to do justice to the spirit if not the letter of the massive public response to the draft. More than six hundred submissions were received. Respondents made suggestions for improvement on almost every part of the document. Inevitably, since respondents represented the entire spectrum of political and educational opinion, they have not always conveyed the same message. Nevertheless, the Ministry of Education has paid careful attention to what all respondents have said. Their advice has informed the Ministry's understanding, even if it has not always been accepted.
10. A large number of specific comments dealt with matters of detailed implementation which this document does not cover. Suggestions of this type have been reserved for consideration by the responsible implementing authorities, and many will be referred to the respective commissions or committees which will be investigating major areas of policy or of educational need in much greater detail than this document has tried to do. In fact, all contributions from the public have been filed and classified for easy access, so that they can continue to be consulted.

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Chapter Two

Why Education and Training

An integrated approach

1. The terms "education" and "training" are coupled in the title of this Ministry of Education document, and at many points in the text. This needs explanation.
2. Training is a vital part of many learning programmes administered in schools, teachers colleges, technical colleges, technikons and universities. The Ministry of Education therefore has great interest in the training function by virtue of its own responsibilities.
3. Education and training are each essential elements of human resource development. Rather than viewing them as parallel activities, the Ministry of Education believes that they are in fact closely related. In order to maximise the benefits of this relationship, the Ministry is committed to an integrated approach to education and training, and sees this as a vital underlying concept for a national human resource development strategy.
4. An integrated approach implies a view of learning which rejects a rigid division between "academic" and "applied", "theory" and "practice", "knowledge" and "skills", "head" and "hand". Such divisions have characterised the organisation of curricula and the distribution

of educational opportunity in many countries of the world, including South Africa. They have grown out of, and helped to reproduce, very old occupational and social class distinctions. In South Africa such distinctions in curriculum and career choice have also been closely associated in the past with the ethnic structure of economic opportunity and power.

5. Successful modern economies and societies require the elimination of artificial hierarchies, in social organisation, in the organisation and management of work, and in the way in which learning is organised and certified. They require citizens with a strong foundation of general education, the desire and ability to continue to learn, to adapt to and develop new knowledge, skills and technologies, to move flexibly between occupations, to take responsibility for personal performance, to set and achieve high standards, and to work cooperatively.
6. In response to such structural changes in social and economic organisation and technological development, integrated approaches toward education and training are now a major international trend in curriculum development and the reform of qualification structures. An integrated approach to education and training will not in itself create a successful economy and society in South Africa. However, the Ministry of Education is convinced that this approach is a prerequisite for successful human resource development, and it is thus capable of making a significant contribution to the reconstruction and development of our society and economy.
7. An integrated approach to education and training, linked to the development of a new National Qualification Framework (NQF) based on a system of credits for learning outcomes achieved, will encourage creative work on the design of curricula and the recognition of learning attainments wherever education and training are offered. It will open doors of opportunity for people whose academic or career paths have been needlessly blocked because their prior knowledge (acquired informally or by work experience) has not been assessed and certified, or because their qualifications have not been recognised for admission to further learning, or employment purposes.
8. Such concepts are not the property of the Ministry of Education alone, but are part of the emerging consensus on the importance of lifelong learning as the organising principle of a national human resource development strategy. The National Training Board, a consultative and research body which advises the Minister of Labour, has made a major contribution through its research on a National Training Strategy Initiative. This was an investigation undertaken by a task team comprising representatives of organised labour, organised business, education and training providers, and the former Department of Manpower.
9. The concept of lifelong learning organised in terms of a National Qualification Framework, is incorporated in the human resource development strategy of the government's Reconstruction and Development Programme.
10. In promoting an integrated approach to education and training under the NQF, the Ministry of Education does not wish to assume executive responsibility for the provision of training which falls within the competence of other Ministries.

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Inter-departmental cooperation

11. The Ministers of Education and Labour have established an Inter-Ministerial Working Group to develop their common interests in an integrated approach to education and training and a National Qualification Framework, and to clarify their respective competencies with regard to training. Both sides are strongly committed to achieve these goals. The joint policy work of the Ministries of Education and Labour on this matter necessarily involves very close cooperation between the two sides, on the basis of a careful definition of where their respective interests, responsibilities, and competencies converge and diverge. The Ministry of Education recognises the Ministry of Labour's essential interest in its active labour market policy, of which the promotion of skills development outside the formal provisioning system for education and training is an integral part.
12. The Working Group includes representatives of the Departments of Education and Manpower, the National Training Board, organised business and organised labour. The Working Group recognises that the prospect of an integrated approach to education and training has alarmed some professionals in both the formal education and the skills training camps. Some training practitioners are concerned that the specific requirements of occupational skills training will be swamped by unreasonable demands for the inclusion of general or academic courses. Some educators are concerned that the intrinsic values of general or academic education will be over-ridden by a narrow vocationalism or a merely economic approach to learning.
13. To some extent, such concerns probably reflect past divisions between the education and training sectors, and may not be fully informed by the most advanced international practice in the design and assessment of learning programmes, either in industry or in educational institutions. Nevertheless, they are not unreasonable and they need to be addressed seriously. Enabling the National Qualification Framework to be developed in an evolutionary, participatory, and consensual way, within clear policy guidelines, will be the best way of implementing the new strategy. The organised teaching profession, and the representative bodies of the university, technikon and college sectors, as major stakeholders, will be invited to become fully involved in this process.
14. The draft National Qualification Framework Bill being prepared by the Inter-Ministerial Working Group will therefore allow ample scope for the NQF to be developed from within the diverse education and training sectors, in terms of national guidelines and a mutually agreed regulatory framework, not by bureaucratic dictation from one or other department. The decisive steps to set the NQF in motion are expected to be taken early in 1995, when the Ministers of Labour and Education will consider the text of the draft Bill, and release it for general consultation.
15. The National Qualification Framework, for which the Minister of Education will accept executive responsibility in Cabinet, is envisaged as being developed and implemented on an inter-departmental basis, with fully consultative processes of decision-making, including all concerned government departments, education and training providers, and major national stakeholders in education and training. The establishment and operation of the NQF on this

basis is the main strategic objective of the Ministry of Education in the development of an integrated approach to education and training.

16. Most other Ministries have responsibilities for skills development and professional training within their spheres of competence, such as Health, Agriculture, Water Affairs and Forestry, Local Government, and the Public Service. The provision and examination of professional education and training is also undertaken by many professional institutes and by a wide range of private colleges. The establishment of the NQF will enable all existing public and private sector education and training providers to assist in establishing appropriate national standards in their specialist fields through the respective accrediting bodies, and to seek recognition for their programmes in terms of such defined standards. Learners engaged in education and training under the auspices of RDP programmes will be able to earn credits towards national qualifications by so doing.

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Part 2 - The Reconstruction and Development of The Education and Training Programme

Chapter 3

Transforming The Legacy of The Past

Introduction

1. For the first time in South Africa's history, a government has the mandate to plan the development of the education and training system for the benefit of the country as a whole and all its people. The challenge the government faces is to create a system that will fulfil the vision to "open the doors of learning and culture to all". The paramount task is to build a just and equitable system which provides good quality education and training to learners young and old throughout the country.
2. This is a national task, acknowledged by the government as a fundamental priority of the Reconstruction and Development Programme (RDP). Developing the human resources of the country is both a goal of the RDP and a requirement for achieving other RDP goals. Appropriate education and training can empower people to participate effectively in all the processes of democratic society, economic activity, cultural expression, and community life, and can help citizens to build a nation free of race, gender and every other form of discrimination.

Past and future

3. In a democratically governed society, the education system taken as a whole embodies and promotes the collective moral perspective of its citizens, that is the code of values by which the society wishes to live and consents to be judged. From one point of view, South Africans have had all too little experience in defining their collective values. From another, our entire history can be read as a saga of contending moralities, which in our era has culminated in a historic agreement based on the recognition of the inalienable worth, dignity and equality of each person under the law, mutual tolerance, and respect for diversity. In the charter of Fundamental Rights and the schedule of Constitutional Principles, the 1993 Constitution expresses a moral view of human beings and the social order which will guide policy and law-making in education as in all other sectors.
4. The closing paragraphs distil the essential moral vision of the constitution-makers:

"This Constitution provides the historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief and sex. "The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society. "The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge. "These can now be addressed on the basis that there is need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimisation."

5. This vision has power because of its honesty and generosity. Frankly and without recrimination, it acknowledges past evils and conflicts, and in their place offers a national agenda of reconciliation and reconstruction, leading to national unity, well-being, and peace. The policy of the Ministry of Education takes its bearings from this vision.
6. When all South Africans won equal citizenship, their past was not erased. The complex legacies, good as well as bad, live on in the present. Difficult as it may be to do so, South Africans need to try to understand each other's history, culture, values and aspirations, not turn away from them, if we are to make the best of our common future.

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Educational legacies

7. As with other basic services, the distribution of education and training provision in our country follows a pattern of contrasts and paradoxes. South Africa has achieved, by a large

measure, the most developed and well-resourced system of education and training on the African continent, with the highest participation rates at all levels of the system. In the best-resourced, well staffed, highly motivated, elite sector of the school system, almost all students succeed in their senior certificate examinations, and an impressive proportion qualify for admission to higher education. The quality of South Africa's diploma, degree, postgraduate and research output has created and sustained the country's sophisticated modern economic and financial infrastructure, industrial, business and communications technology, medical, legal, media, cultural and other professional services. In these respects South Africa compares well with other industrialising countries and seeks to match itself with the world's best.

8. At the same time, millions of adult South Africans are functionally illiterate, and millions of South African children and youth are learning in school conditions which resemble those in the most impoverished states. In the large, poorly-resourced sectors for the majority of the population, a majority of students drop out prematurely or fail senior certificate, and a small minority win entrance to higher education. Access to technological and professional careers requiring a strong basis in mathematics and science is denied to all but a fraction of the age cohort, largely because of the chronic inadequacy of teaching in these subjects.
9. Gross inequalities in educational attainment, skills, employment opportunity, productivity and income have been typical of industrialising economies in the modern era, on all five continents. In that respect, South Africa resembles many other countries, and South Africans grapple with similar needs for social justice, employment creation, housing, primary health care, environmental protection, and educational services. Measured by international indicators of human development and economic competitiveness, South Africa's overall performance is poor because the achievements of its outstandingly well-developed elite sector are overshadowed by inadequate provision for the basic needs, including education and training, of the majority of the population. Low levels of life-expectancy, basic health and nutrition, skills and productivity are the result.
10. In these respects, our circumstances may be similar to those of many other developing or industrialising societies, but our circumstances are the result of our own history, not any other people's. The unique pattern of South African inequality and under-development has been laid down over the generations of minority rule and ethnically-based economic, labour and social development policies. The gradations between rich and poor, articulate and voiceless, housed and homeless, well-fed and malnourished, educated and illiterate, therefore mirror South Africa's complex racial and ethnic hierarchies. By every index, African communities, followed by Coloured communities, have the highest deficits in the provision of basic services, and lowest level of access to the means of providing a better quality of life.
11. The national and provincial Ministries of Education are dealing daily with the legacy of South Africa's historically separate education and training systems. The historic pattern of organisation has changed many times during a century and more of public educational provision, but from the viewpoint of the majority of the population, it has always been the case that schools and colleges were ethnically segregated and ultimate control of funds and policy was retained by White central governments. From 1983, education was organised

through the three separate "own affairs" services of the tricameral parliament, for Indians, Coloureds and Whites respectively (the latter being organised in four semi-autonomous provincial departments), with provision for the Black population being divided between six self-governing territory departments, a central government department administering education for Africans living in the "White RSA", and four nominally independent state departments. A "Department of National Education" controlled policy and budgetary allocations on behalf of the central government.

12. Until recently, all these separate systems have operated in more or less total isolation from each other, except at the level of top management. Mutual ignorance has therefore been the norm, even between teachers and administrators working virtually side by side in neighbouring systems within the same city, town or rural village. In 1995, as their educators and administrators are absorbed into new non-racial national and provincial departments, the pre-democratic ethnic departments will dissolve and their separate institutional cultures, personal networks and community relations, good and bad, face extinction.

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A transformative mission

13. The fact that South Africans have experienced different educational histories is therefore a significant factor in the transition to a single, national non-racial system. In this situation, a priority for the national and provincial Ministries of Education is to create a transformative, democratic mission and ethos in the new departments of education which can completely supersede the separate identities of the former departments. It is now the joint responsibility of all South Africans who have a stake in the education and training system to help build a just, equitable, and high quality system for all the citizens, with a common culture of disciplined commitment to learning and teaching. In this task the best expertise and experience from the old ethnic departments will be indispensable, just as all inefficient and reactionary administrative and professional practices from the past dispensations must be jettisoned.
14. Fortunately, the ministries have access not only to the best of the old departmental experience, but also to a wealth of innovative policy research, curriculum development, teaching, assessment and evaluation, in-service teacher education, educational materials production, textbooks, educational media, and practical experience in the delivery of education to neglected communities and sectors, which has been built up by educational NGOs, community-based organisations, research units, resource and training agencies, publishers, faculties of education, and schools and colleges outside the official system. These have worked for years within a non-racial, non-sexist and participatory culture, developing alternatives and supplements to what prevailed within the old departments, and preparing for the day which has now dawned.
15. In recent years, with the national compass set towards the democratic future, unprecedented investigations of national educational and training needs have been undertaken with the participation of a wide range of stakeholder organisations and agencies, at times including

departments of government. The findings and recommendations have been widely disseminated and discussed. In the process, a convergence of view has emerged on many issues of fundamental importance, even if there is still principled disagreement over others, and considerable debate over questions of implementation, including the priorities to be set in the light of the limits to our resources.

16. New education and training policies to address the legacies of under- development and inequitable development and provide learning opportunities for all will be based principally on the constitutional guarantees of equal educational rights for all persons and non-discrimination, and their formulation and implementation must also scrupulously observe all other constitutional guarantees and protections which apply to education.

Acknowledgement and invitation

17. At the moment when the Ministry of Education in the first democratic South African government lays the foundations of the new system of education and training, it is appropriate to recall, soberly and without recrimination, that education has been a deeply contested terrain from colonial times and throughout the long history of minority rule. Language, cultural and education policies have always been closely allied to the main themes of state policy. It is not surprising, therefore, that major political movements in the country's modern history have frequently been stirred by struggles for educational, language and cultural rights, in the face of overbearing state ideologies.
18. In the post-World War II period, the struggle for equal educational rights and equal citizenship became completely identified, because the denial of equal educational rights constituted a direct attack on the human dignity and life chances of the vast majority of South Africa's peoples. As a result, schools, colleges and universities became part of the arena of political mobilisation and confrontation with the security forces. Casualties numbered in the thousands, thousands were detained, thousands fled into exile. Many were killed. These statements are true, and they loom so large in recent memory that they cannot be ignored.
19. It is fitting for the Ministry of Education to pay tribute to the generations of parents, students and teachers who were willing to risk their lives, personal liberty, family life, educational progress and careers in the cause of democracy, equal rights, non-racialism, and equal education.
20. It is also fitting for the Ministry of Education to acknowledge with gratitude the selfless service of generations of educators in all communities who have exemplified the best traditions of their calling by dedicating themselves to the interests of their students, especially those who have been called upon to do so under conditions of severe inequality, hardship and danger.
21. It is also true that the culture of resistance in educational institutions created massive tensions and divisions among students, teachers, and administrators from which the country is only now beginning to emerge. Even in recent times, with a democratic government elected by all the people, abuses have taken place in educational institutions in the name of liberation, which cannot be condoned.

22. It is time to declare that a new era has dawned. In publishing this document, the Ministry of Education opens not just a new chapter but an entirely new volume in the country's educational development. The efforts of all South Africans will be needed to reconstruct and develop the national education and training system so that it is able to meet the personal and social needs, and economic challenges, that confront us as we build our democratic nation. The Ministry of Education invites the goodwill and active participation of all parents, teachers and other educators, students, community leaders, religious bodies, NGOs, academic institutions, workers, business, the media, and development agencies, in bringing about the transformation we all seek.
23. For its part, the Ministry of Education undertakes to pursue an open and transparent process of policy-making, to tell the truth about the condition of the education and training system and the problems the government encounters, and to do everything in its power to assist those who bear the responsibility at all levels for turning the vision of a learning nation into reality.

An Education and Training Charter

24. A significant step in this direction will be taken if, in the spirit of reconciliation and reconstruction, all parties in the government and key stakeholders and roleplayers can agree to a common statement of essential goals and principles for the reconstruction, development and protection of the education and training system.
25. The Ministry of Education will shortly invite a representative group of South Africans to prepare a draft Education and Training Charter. This draft will form the basis for a country-wide consultation, out of which a revised text will be developed and agreement negotiated. The Education and Training Charter is envisaged as a solemn pact, in its own way as significant for peace and progress in our country as the Constitutional Principles on which the new Constitution will be based.

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Chapter Four

Values and Principles of Education and Training Policy

1. It is necessary to identify the values and principles which, in the view of the Ministry of Education, should drive national policy for the reconstruction and development of education and training.
2. Education and training are basic human rights. The state has an obligation to protect and advance these rights, so that all citizens irrespective of race, class, gender, creed or age, have the opportunity to develop their capacities and potential, and make their full contribution to the society.
3. Parents or guardians have the primary responsibility for the education of their children, and have the right to be consulted by the state authorities with respect to the form that education should take and to take part in its governance. Parents have an inalienable right to choose the form of education which is best for their children, particularly in the early years of schooling, whether provided by the state or not, subject to reasonable safeguards which may be required by law. The parents' right to choose includes choice of the language, cultural or religious basis of the child's education, with due regard for the rights of others and the rights of choice of the growing child.
4. Since countless South African families are fragmented by such factors as past unjust laws, migratory labour practices, and marital breakdown, and handicapped by illiteracy from participating fully in the education of their children, the state has an obligation to provide advice and counselling on education services by all practicable means, and render or support appropriate care and educational services for parents, especially mothers, and young children within the community.
5. The over-arching goal of policy must be to enable all individuals to value, have access to, and succeed in lifelong education and training of good quality. Educational and management processes must therefore put the learners first, recognising and building on their knowledge and experience, and responding to their needs. An integrated approach to education and training will increase access, mobility and quality in the national learning system.
6. The system must increasingly open access to education and training opportunity of good quality, to all children, youth and adults, and provide the means for learners to move easily from one learning context to another, so that the possibilities for lifelong learning are enhanced. The Constitution guarantees equal access to basic education for all. The satisfaction of this guarantee must be the basis of policy. It goes well beyond the provision of schooling. It must provide an increasing range of learning possibilities, offering learners greater flexibility in choosing what, where, when, how and at what pace they learn.
7. In achieving this goal, there must be special emphasis on the redress of educational inequalities among those sections of our people who have suffered particular disadvantages, or who are especially vulnerable, including street children, out-of-school youth, the disabled and citizens with special educational needs, illiterate women, rural communities, squatter communities, and communities damaged by violence.
8. The state's resources must be deployed according to the principle of equity, so that they are used to provide essentially the same quality of learning opportunities for all citizens. This is an inescapable duty upon government, in the light of this country's history and its legacy of

inequality, and it is a constitutional requirement. There must be purposeful strategies for ensuring that the system protects the rights of teachers and students to equitable treatment. Fair opportunities for training and advancement in the education service, including an affirmative action policy, are essential, in order to ensure an effective leadership cadre which is broadly representative of the population they serve. The representation of women in leadership positions must be drastically increased.

9. The improvement of the quality of education and training services is essential. In many of the schools and colleges serving the majority of the population there has been a precipitous decline in the quality of educational performance, which must be reversed. But quality is required across the board. It is linked to the capacity and commitment of the teacher, the appropriateness of the curriculum, and the way standards are set and assessed. A national qualification framework will be the scaffolding on which new levels of quality will be built. Other quality assurance mechanisms will be developed to ensure the success of the learning process.
10. The years of turmoil have taken a heavy toll on the infrastructure of our education and training system. The relationship between schools and many of the communities they are expected to serve has been disrupted and distorted by the crisis of legitimacy. The rehabilitation of the schools and colleges must go hand in hand with the restoration of the ownership of these institutions to their communities through the establishment and empowerment of legitimate, representative governance bodies.
11. The principle of democratic governance should increasingly be reflected in every level of the system, by the involvement in consultation and appropriate forms of decision-making of elected representatives of the main stakeholders, interest groups and roleplayers. This requires a commitment by education authorities at all levels to share all relevant information with stakeholder groups, and to treat them genuinely as partners. This is the only guaranteed way to infuse new social energy into the institutions and structures of the education and training system, dispel the chronic alienation of large sectors of society from the educational process, and reduce the power of government administration to intervene where it should not. Representative governance structures do not exclude the importance of governments and institutions calling upon expert advice to supplement their own professional resources.
12. The restoration of the culture of teaching, learning and management involves the creation of a culture of accountability. This means the development of a common purpose or mission among students, teachers, principals and governing bodies, with clear, mutually agreed and understood responsibilities, and lines of cooperation and accountability.
13. The realisation of democracy, liberty, equality, justice and peace are necessary conditions for the full pursuit and enjoyment of lifelong learning. It should be a goal of education and training policy to enable a democratic, free, equal, just and peaceful society to take root and prosper in our land, on the basis that all South Africans without exception share the same inalienable rights, equal citizenship, and common national destiny, and that all forms of bias (especially racial, ethnic and gender) are dehumanising.
14. This requires the active encouragement of mutual respect for our people's diverse religious, cultural and language traditions, their right to enjoy and practice these in peace and without hindrance, and the recognition that these are a source of strength for their own communities

and the unity of the nation.

15. Education in the arts, and the opportunity to learn, participate and excel in dance, music, theatre, art and crafts must become increasingly available to all communities on an equitable basis, drawing on and sharing the rich traditions of our varied cultural heritage and contemporary practice.
16. The education system must counter the legacy of violence by promoting the values underlying the democratic process and the charter of fundamental rights, the importance of due process of law and the exercise of civic responsibility, and by teaching values and skills for conflict management and conflict resolution, the importance of mediation, and the benefits of toleration and co-operation. Thus peace and stability will become the normal condition of our schools and colleges, and citizens will be empowered to participate confidently and constructively in social and civic life.
17. The curriculum, teaching methods and textbooks at all levels and in all programmes of education and training, should encourage independent and critical thought, the capacity to question, enquire, reason, weigh evidence and form judgments, achieve understanding, recognise the provisional and incomplete nature of most human knowledge, and communicate clearly.
18. Curriculum choice, especially in the post-compulsory period, must be diversified in order to prepare increasing numbers of young people and adults with the education and skills required by the economy and for further learning and career development.
19. An appropriate mathematics, science and technology education initiative is essential to stem the waste of talent, and make up the chronic national deficit, in these fields of learning, which are crucial to human understanding and to economic advancement.
20. Environmental education, involving an inter-disciplinary, integrated and active approach to learning, must be a vital element of all levels and programmes of the education and training system, in order to create environmentally literate and active citizens and ensure that all South Africans, present and future, enjoy a decent quality of life through the sustainable use of resources.
21. Two operational principles-sustainability and productivity-are given strong emphasis in the Reconstruction and Development Programme. They need to be upheld in the development of plans and programmes for the reconstruction and development of the education and training system.
22. The expansion of the education and training system must meet the test of sustainability. The education and training system has not been given an open cheque book by the government. Development needs to be planned for, and balanced across the full range of needs, from early childhood to postgraduate study. Unsustainable development is not development at all, but a kind of fraud practised on the people. However, sustainability is not just a financial concept. True sustainability occurs when the people concerned claim ownership of educational and training services and are continuously involved in their planning, governance and implementation.
23. The system of education and training, taken overall, has developed many areas of inefficiency, where funds are wasted and staff are not well employed. The productivity of the system-what it produces in terms of personal learning, marketable skills, and

examination results, in relation to what it has cost-is very low in much of the system. Improving efficiency and productivity is essential in order to justify the cost of the system to the public, to secure more funds for development when they are needed, to raise the quality of performance across the system, and thus improve the life chances of the learners.

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Chapter Five

Developmental Initiatives

Introduction

1. The government's Reconstruction and Development Programme (RDP) is designed as an integrated, coherent socioeconomic policy framework. The main theme of the RDP's human resource development programme is the empowerment of people, through education and training, including specific forms of capacity-building within organisations and communities, to participate effectively in all the processes of democratic society, economic activity, cultural expression and community life.
2. All Ministries are expected to re-orient their programmes and budgets in accordance with RDP priorities. From one perspective, the entire work of the national and provincial Ministries of Education supports the objectives of the RDP, since education and training are by definition developmental. From another perspective, the education and training sector requires transformation like any other, because of the structural imbalances in provision, funding, quality and output, the need to deliver education services to neglected adult, youth and early childhood constituencies, to rewrite curricula and textbooks, link schooling and the world of work, restructure governance systems, upgrade the professional competence of teachers, gear learning outcomes to the country's reconstruction and development agenda, and much more.
3. These vast needs cannot be met all at once or satisfied in a short period. The Ministry of Education does not have a free hand, a clean slate, or a blank cheque with which to plan and implement the future. The need for a strategic plan, including both general and specific targets, is difficult to deny. In principle, a well-founded plan would enable efforts and resources to be concentrated, and would help prevent national and provincial ministries being swept along on a tide of immediate and perhaps unrelated or conflicting demands and crisis-management decisions.
4. Macro-planning exercises up to now have been focused primarily on the rationalisation of the system, organisational development, broad policy, and interim curriculum reform, since the entire organisational, institutional, financial and legal infrastructure of the national education system has been in flux since May 1994. Departmental capacity for strategic

planning has been limited, and the new education information system and data base are still being constructed.

5. The developmental initiatives in this chapter, which together comprise a large part of the Ministry of Education's main policy agenda for the reconstruction and development of the system, will be brought within the scope of the strategic planning exercise. Here they are proposals, or descriptions of actions, on almost all of which the Ministry of Education is already engaged, without an attempt being made in this document to propose a comprehensive plan of implementation with time-frames.
6. Since the national Department of Education has no executive responsibility for the provision of education in schools and colleges, it is imperative that macro-planning should be undertaken as a collaboration between the national department and provincial Departments of Education (which are being established and staffed during 1995), and major providing systems including the universities and technikons. This is a task for the new Department of Education which will relate well to the government's requirement for a zero- based, multi-year budgeting process.
7. The developmental initiatives which are described below anticipate several important structural and institutional innovations. In a time of transition it may appear that change takes on a momentum of its own. The Ministry of Education is aware of the importance of continuity and the need to ensure that change takes place in a considered and orderly manner, within a coherent structure of accountability. Many of the inherited consultative bodies have been dissolved because they are unconstitutional or no longer serve a useful purpose. Other bodies have been substantially changed in membership, such as the University and Technikon Advisory Council (AUT), or restructured, such as the former ethnically-based Committee of Heads of Education Departments (CHED), now the Heads of Education Departments Committee (HEDCOM). Such structures of advice and consultation fulfil a vital function, both in order to maintain the flow of decision-making, and as vehicles for managing change. In due course, partly as a result of the developmental initiatives described below, the permanent system of statutory advice will be brought into place.

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National Qualification Framework

8. National reconstruction and development demands that the knowledge and skills base of the working and unemployed population are massively upgraded, and that young people still at school have better opportunities to continue their education and training.
9. Our human resource development programme must therefore expand the ways in which people are able to acquire learning and qualifications of high quality. New, flexible and appropriate curricula are needed that cut across traditional divisions of skills and knowledge, with standards defined in terms of learning outcomes and appropriate assessment practices, in order to provide a more meaningful learning experience, and prepare them more effectively for life's opportunities.
10. An integrated approach to education and training will link one level of learning to another

and enable successful learners to progress to higher levels without restriction from any starting point in the education and training system. Quality assurance will be maintained by duly registered accrediting bodies. Learning and skills which people have acquired through experience and on-site training or self-education could be formally assessed and credited towards certificates, in order to enable them to qualify for entry to additional education or training.

11. As discussed in chapter 2, the Inter-Ministerial Working Group of the Ministries of Education and of Labour has prepared draft legislation for the creation of a National Qualification Framework (NQF). The Ministries are satisfied that a very broad consensus has developed on the need for the NQF and its main principles of operation. The NQF is specifically endorsed in the Government's Reconstruction and Development Programme as a key element of human resource development strategy. Organised business and organised labour have been leading actors in undertaking the conceptualisation. The public response to the proposal in the draft version of this document was strongly positive in principle.
12. The NQF is a priority programme of the Ministry of Education, acting in consultation with the Ministry of Labour. The South African Qualifications Authority (SAQA), which will have responsibility for developing the NQF, will be brought into existence through legislation as a parastatal body, in the shortest possible time after the NQF Act has been passed. Since it is intended that the NQF be developed and maintained in a highly devolved and consultative manner, the SAQA executive office should not be large.
13. The Ministry of Education is aware that many vital interests need to be taken into account in the further development of this initiative. Through the National Training Board's National Training Strategy Initiative, a large number of organised constituencies have already participated in the development of the NQF concept. It is intended that the draft NQF Bill, together with an explanatory memorandum, be gazetted for consultation as soon as the Ministers of Labour and Education have approved its release. Comprehensive consultations will be invited with the provincial Departments of Education through HEDCOM, the university, technikon and college sectors, representative stakeholder organisations, professional institutes, private educational institutions, NGO providers and accrediting bodies, and the special educational needs constituency, so that the revised Bill reflects their advice and enjoys their confidence. Special consultations will be needed to clarify the future role of existing certification bodies.
14. SAQA will be charged with developing the National Qualification Framework, on a fully consultative basis, for the Minister's approval. Meanwhile, without prejudice to the outcome, the Department of Education is basing its forward thinking on a draft, provisional structure of the NQF comprising eight qualification levels, which can be listed schematically as follows:

(1) Level 1: General Education Certificate (GEC), to be achieved by the acquisition of the required credits

- at the end of the compulsory schooling phase: one year reception class (pre- school) plus nine years to Grade 9 (present Standard 7)

- through Adult Basic Education and Training programmes, which may be sub-divided into three sub-levels

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(2) Levels 2-4: Further Education Certificate(s) (FEC), to be achieved by the acquisition of the required credits, which may comprise core units and optional units in different combinations, undertaken in a variety of modes, including

- senior secondary school programmes, up to Grade 12 (Standard 10)
- general and career-specific programmes offered in the college sector including those offered in the current Technical Colleges, Community Colleges, Intermediate Tertiary Colleges, other private vocational or academic colleges, and NGO providers
- programmes offered in Regional Training Centres, through workplace training, etc

(3) Levels 5-8: Higher Education diplomas and degrees, achieved by the acquisition of the required credits, undertaken in programmes offered by

- professional colleges, both public and private - professional institutes
- technikons
- universities

15. The Ministry notes that strong representations have been made by organisations speaking on behalf of adult and young learners, to start Level 1 at the first ABET benchmark, which could be equivalent to the end of primary education, and that the term "sub-level" be abandoned for these learners. LSEN specialists also point out that adjustments may be required in respect of learners with special education needs. Such views will need to be given full weight by SAQA as it prepares its proposals on the NQF structure.

Curriculum development

16. The advent of democracy in South Africa has made it both possible and imperative to undertake an overhaul of the learning programmes in the nation's schools and colleges. The Ministry of Education is committed to a fully participatory process of curriculum development and trialling, in which the teaching profession, teacher educators, subject advisors and other learning practitioners play a leading role, along with academic subject specialists and researchers. The process must be open and transparent, with proposals and critique being requested from any persons or bodies with interests in the learning process and learning outcomes.
17. The Ministry recognises that it is important to set up rapid processes for the production of new curriculum frameworks and core curricula. Much valuable work has been done already, within the Department of Education, in university curriculum projects, by subject associations, and by NGOs, alone and in networks. All curriculum change is a lengthy

process, but strategic points of entry will be found so that a progressive transformation will take place on a phased basis.

18. Important developmental and coordination work at the national level has been done by the Curriculum Technical Sub-Committee of the National Education and Training Forum, in which the Department of Education plays a full part. The close involvement of national bodies of the organised teaching profession is a major benefit of this process. The Interim Committee of Heads of Education Departments (ICHED), which links the national and provincial departments together, has now accommodated the NETF's role in bringing together the major stakeholders in the curriculum change process, by creating 41 National Curriculum Committees on which the national and provincial Departments of Education as well as other major roleplayers are represented. The work of these committees in developing national norms and standards for the curriculum is coordinated by a representative Coordinating Committee for the School Curriculum.
19. This extensive new structure of curriculum committees will formulate draft norms and standards for consideration by HEDCOM. When approved by the Minister of Education, they will be announced as national policy. Once the NQF has been developed and implementation commences, this process will have to link up with the SAQA procedures.
20. The formulation of national norms and standards necessarily involves the development of curriculum frameworks and core curricula. Within these national parameters, provincial Departments of Education have significant scope for defining learning programmes which express distinct provincial interests and priorities, should they wish to do so. Curricula which satisfy national norms may also be developed by other providing agencies. School-based "micro" adaptations can be an important means of professional development and INSET, as well as expressing particular interests of the school and its community.
21. Considerable interest has been expressed in the concept of a National Institute of Curriculum Development (NICD). In the light of the progress which has been made in establishing new National Curriculum Committees and a representative Coordinating Committee for the School Curriculum, the Department of Education will invite HEDCOM and the main stakeholders and roleplayers in education and training to participate in a study of alternative forms such an Institute could take, and the ways in which it could function. The department proposes that the NICD study should cover the relationship of curriculum, assessment and teacher education processes in all fields and phases of education and training, including early childhood learning, education support services and special educational needs.
22. The role of a NICD in the development and implementation of the National Qualification Framework should be a central element of the study. This will encompass the development of norms and standards for the General Education and Further Education levels, both in and out of school, and thus the implications of an integrated approach to education and training, the articulation of school and out-of-school curricula, the assessment and recognition of prior learning and experience, and the current and future requirements for national norms and standards for teachers and for "education, training and development practitioners" (a broad category introduced by the National Training Strategy Initiative which is meant to encompass a career path in formal and non-formal training).

23. The study should clarify the link between teacher education, especially INSET, and curriculum development, and the future role of the many NGOs working in the curriculum and INSET fields. It should consider the new demands for learning materials and well designed courses arising from the use of appropriate open learning approaches throughout the education system. The relationship between national and provincial curriculum processes should also be considered. Finally, the question of a binding code of conduct concerning the writing and approval of textbooks, needs to be investigated.

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National Open Learning Agency (NOLA)

24. The dimensions of South Africa's learning deficit are so vast in relation to the needs of the people, the constitutional guarantee of the right to basic education, and the severe financial constraints on infrastructural development on a large scale, that a completely fresh approach is required to the provision of learning opportunities.
25. Open learning is an approach which combines the principles of learner centredness, lifelong learning, flexibility of learning provision, the removal of barriers to access learning, the recognition for credit of prior learning experience, the provision of learner support, the construction of learning programmes in the expectation that learners can succeed, and the maintenance of rigorous quality assurance over the design of learning materials and support systems. South Africa is able to gain from world-wide experience over several decades in the development of innovative methods of education, including the use of guided self-study, and the appropriate use of a variety of media, which give practical expression to open learning principles.
26. The Ministry of Education is anxious to encourage the development of an open learning approach, since it resonates with the values and principles of the national education and training policy which underpin this document, and has applicability in virtually all learning contexts. For this reason, the Ministry will undertake an early investigation into the most useful structure and mission of a National Open Learning Agency (NOLA). This is envisaged as a small, flexible and responsive professional agency, with the mission of promoting the open learning principles wherever they can be most influential. NOLA would undertake research and development on open learning, help build a network of public and private open learning institutions and practitioners, and facilitate their efforts to translate open learning principles into effective practice. The NOLA and NICD concepts should be developed in close relationship with each other.

Education Support Services and Education for Learners with Special Educational Needs

27. Education Support Services (ESS) encompass all education-related health, social work, vocational and general guidance and counselling, and other psychological programmes and

services, and services to learners with special education needs (LSEN) in mainstream schools. Parents, teachers and students in both formal and non-formal sectors of the education and training system are beneficiaries of and participants within these services, which until now have tended to function separately, and to be administered separately with poor co-ordination. The Ministry of Education accepts that the demands of specialized education for severely handicapped learners are related to but should not be encompassed by ESS.

28. It cannot be said that Education Support Services or LSEN services have been comprehensive enough in any part of the former education and training system, but in general, the better resourced a department had been in the past, the more support services have been available to learners, and the greater the ease of access to that support. Where the need has been greatest the service has been poorest. Low levels of funding for Black education have relegated ESS and LSEN services to the periphery, with the result that ESS and LSEN provision for African learners is meagre in the extreme, whether through mainstream or specialised facilities.
29. Provision of these services is a matter for provincial departments. The Ministry of Education's interest in ESS lies in the necessity to take a national overview, through careful research and consultation, of the condition of these services, to consider the scope for national norms and standards, and minimum national standards of service, and to give direction on policy.
30. The Ministry of Education intends to explore a holistic and integrated approach to Education Support Services, in collaboration with the provincial Ministries of Education and in consultation with the Ministries of Health, Welfare and Population Development, and Labour. The inclusive, integrated approach recognises that issues of health, social, psychological, academic and vocational development, and support services for learners with special education needs in mainstream schools, are inter-related.
31. The term "Education Support Services" may tend to emphasise the auxiliary nature of "curative" services and to downplay the potential advantages of an approach which integrates and infuses ESS into the mainstream curriculum and the Lifeskills curriculum. In this vein, educational and career guidance specialists have argued strongly, in response to the draft document, that guidance is an integral part of the curriculum, not ESS. The Ministry fully accepts that guidance is an integral part of the curriculum and must be given its full scope in that sphere and in teacher education, but wishes to explore the advantages of conceptualising guidance services within an integrated ESS framework.
32. It is essential to increase awareness of the importance of ESS in an education and training system which is committed to equal access, non-discrimination, and redress, and which needs to target those sections of the learning population which have been most neglected or are most vulnerable. At the same time, there is every reason to believe that more effective infusion of ESS concerns within the mainstream, will by prevention reduce the risk of increasing the numbers of learners at risk.
33. One way to ensure visibility is to require the representation of ESS personnel, learners with special education needs, and their legitimate representatives, on all statutory or consultative bodies which deal with ESS matters, and to ensure representation on bodies dealing with

general education policy.

34. The vast need for ESS, coupled with the extreme impoverishment and inequality in provision for ESS, the complexity of the professional fields involved, and the necessity for co-ordination across levels of government and different departments (as well as with NGOs), indicate that one or more special studies are required.
35. The Ministry of Education favours the early appointment of a National Commission on Special Needs in Education and Training to undertake a thorough needs analysis and make its recommendations to the Minister. The Department of Education will seek advice from the LSEN constituency, the Heads of Education Departments, and the Department of Health and the Department of Welfare and Population Development on the Commission's terms of reference, before putting a firm proposal to Cabinet for approval. In view of the extreme importance of early identification of special educational needs, the scope of the enquiry will specifically include the early childhood phase, from birth to school entry, and the questions of prevention and support through effective ESS in the mainstream.
36. The Department of Education will propose to the Heads of Education Departments Committee that an investigation into the holistic and integrative concept of ESS be undertaken in parallel with the national commission and feed into its deliberations.

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Teachers, Trainers and Educators

37. The teacher education sector is a joint responsibility of the national and provincial governments, since the 100+ teachers colleges fall under the provincial Departments of Education, and teacher education conducted in universities and technikons falls under the national Department, whereas the many NGOs involved in teacher education may belong in either category. Teacher education belongs at present both within higher education and within the so-called "college/school" (CS) sector.
38. The Ministry of Education is strongly of the view that teacher education is a unified field and belongs in higher education. The Ministry will be expecting advice on this point from the National Commission on Higher Education which is discussed below.
39. This is not to say that the teachers colleges will or can cease to fall under the respective provincial departments, since the Constitution is clear on this matter. What is required is imaginative bridge building between the national and provincial levels, so that the planning and development of the sector can proceed in a purposeful, coherent and cost-effective way.
40. The Ministry regards teacher education (including the professional education of trainers and educators) as one of the central pillars of national human resource development strategy, and the growth of professional expertise and self-confidence is the key to teacher development. The responsibility of the national level of government is to provide facilitative and regulatory mechanisms under which the institutions and bodies responsible for programmes will have wide latitude to design and deliver them.
41. The Ministry of Education therefore requires appropriate advice on all aspects of teacher education policy. These encompass the structure and career paths in the teaching profession,

- demand and supply factors, initial teacher education, induction, in-service education and professional development, whether based institutionally or provided by distance education methods. The Committee for Teacher Education Policy (COTEP) will continue to provide this advisory function as a sub-committee of the Heads of Education Departments Committee (HEDCOM). The desirability of a statutory National Council for Teacher Education (NCTE), representing all higher education institutions, including teachers colleges, the teaching profession, and the provincial Departments of Education, will continue to be examined in the light of experience and such advice as the National Commission on Higher Education may render.
42. The provincial Departments of Education, and university and technikon faculties of education, will be responsible for the redesign of teacher education programmes in line with the new values, goals and principles of national education and training policy determined by the Minister. Such national policy will include a qualification structure expressed in terms of minimum criteria and competences, and will facilitate the qualitative improvement and developmental relevance of teacher education programmes. It will contribute to a new system of accreditation for teacher education and training institutions which accords with the NQF, and provides for quality assurance and the portability of credits. As a benchmark for the new policy, a national professionally-researched audit of teacher education capacity is being undertaken in the first half of 1995 under the auspices of HEDCOM and with the support of the Council of Education Ministers.
 43. Given the magnitude of the task of teacher education and development, and the cost factors, it is likely to be necessary to base as much teacher education work as possible on what, for South Africa, will be an entirely new approach to distance education, which will include strong professional support. It will be imperative for COTEP to coordinate the development of such distance education courses, given the high initial financial outlay involved, especially in preparing new learning materials, staff development and student support systems.
 44. The Ministry believes that the most direct way of raising the quality of learning and teaching is through a comprehensive reform and re-direction of in-service education for teachers (INSET). The faculties of education in universities and technikons, the NGO sector, the more creative colleges of education, and some subject organisations of teachers, have been responsible for an array of innovative INSET programmes, many of which involve professional development and teacher empowerment within school settings, and cooperative work among teachers from different schools under specialised guidance.
 45. There is a need for an evaluation of current INSET practice in these and other settings, and the role of Departments of Education, faculties and colleges of education, the NGO sector, and teacher organisations, in a revitalised, properly accredited INSET service from primary school through to the senior secondary phase. The audit of teacher education capacity will go some way to meet this need, but a specific INSET initiative has been urged on the Ministry in the course of the public consultation on the draft version of this document, and will be seriously considered by COTEP.
 46. Special criteria will be needed to prepare students for subjects in short supply, particularly science, mathematics and technology. 'Second chance' opportunities should be extended to

students who would not otherwise fulfil the admission criteria, and special support should be extended to them, for as long as the need persists. Well-functioning distance education programmes can play an essential role in increasing the productivity of the small science, mathematics and technology base, and providing opportunities to very large numbers of students in as flexible a way as possible.

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A student recovery programme In Science and Mathematics

47. Such interventions would be part of a comprehensive programme of special measures which are needed to enable many more students to follow science-based careers. Coordinated and certificated "second chance to learn" and recovery programmes for students in science and mathematics would offer alternative entry to higher education and employment, but should be part of a comprehensive package of measures, including new science and mathematics curricula linked to accredited in-service programmes at all levels of schooling.
48. The attrition of science and mathematics students in Black schools is a special case of the broader problems of student retention, teacher preparation, inadequate facilities and materials, inadequate guidance on curriculum choice, and examination strategy. For a variety of such reasons, only one in five Black students choose physical science and mathematics in Standard 8, and the trend of performance in the senior certificate examinations has been low overall, with a particularly dismal matriculation exemption rate among students taking these subjects at higher grade.
49. The consequence is a dearth of Black students with science and mathematics qualifying for normal entry to higher education, fewer still continuing in mathematics and science-based programmes, and a trickle entering mathematics and science-based professional and technological fields in the economy. Mathematics and science programmes in universities and teachers colleges therefore have a perennial shortage of high quality Black candidates in these subjects. In particular, the number of science and mathematics teachers graduating from colleges of education, is far too small to make an impression on the need in schools, and their subject knowledge and professional confidence is generally poor. A "cycle of mediocrity" perpetuates itself through their efforts in the classroom.
50. If this cycle is wasteful from an educational point of view, it is catastrophic from the perspective of national developmental needs. The Ministry of Education is committed to make its contribution to the broader field of national science and technology policy through its special responsibility for national standards in the fields of curriculum and teacher education. In particular, without derogating from the value of the many existing intermediate and academic development programmes in science and mathematics, from which much has been learnt, the Ministry of Education will give full support to a new intervention starting in 1995 to 'recover' science and mathematics students and upgrade both their knowledge and attitudes to these subjects, and link successful completers to a new diploma programme in selected colleges of education. This programme has the endorsement of the Interim CHED and will be undertaken in close cooperation with the national and

provincial Departments of Education.

Adult Basic Education and Training

51. The historic inadequacy of school education, especially for Black communities, has ensured that a majority of the adult population, both in and out of formal employment, has had no schooling or inadequate schooling. This situation must be redressed, because basic education is a right guaranteed to all persons by the Constitution, and because our national development requires an ever-increasing level of education and skill throughout society.
52. The Ministry of Education views Adult Basic Education and Training (ABET) as a force for social participation and economic development, providing an essential component of all RDP programmes. The objective of policy is a national ABET programme, focused on particular target groups which have historically missed out on education and training, and providing an appropriate ABET curriculum whose standards will be fully incorporated in the National Qualification Framework.
53. To avoid becoming educational dead-ends for separate groups or individual learners, therefore, ABET programmes should be designed around a common core of fundamental concepts, knowledge and skills on which further learning, knowledge and skill formation could be built. The expected outcomes, or learners' achievements, should therefore be formulated in progressive steps which are appropriate to the learners' circumstances and experience, which should encourage a large measure of self-learning, and which enable learners to be assessed and credited with nationally recognised standards of attainment.
54. The main organisational principle of the national ABET programme will be the building of partnerships of all constituencies with a vital interest in the ABET enterprise, including organised labour and business, women's and youth organisations, civics, churches, specialist NGOs, learner associations, all levels of government, media and other stakeholders. The partnerships are expected to undertake planning, arrange public advocacy, sponsor research and development, and mobilise financial resources for the programme. A representative national ABET Council is expected to be established as the authoritative voice of the field, and to advise the Minister.
55. A professional directorate for ABET is being established in the new Department of Education, in order to provide a national focal point for the Ministry's commitment to the field, to undertake or sponsor research on structure and methods, to develop norms and standards, and to liaise with the RDP Office, the Department of Labour, and provincial departments of education. In the meantime, the Ministry of Education has established a national ABET Task Team, including provincial representatives, to carry forward the extensive preparatory work which has already been undertaken by the community of ABET stakeholders and practitioners and plan the RDP Presidential Lead Programme in this field, in conjunction with counterpart teams in the provinces. The Department of Education will work with the Task Team to help translate proposals into implementable policy.
56. In general, ABET programmes can make more cost-effective use of available educational facilities. They do not require major investments in new buildings. In addition, they can exploit opportunities for distance education where appropriate. One institutional innovation

which the Ministry wishes to see investigated with some speed is the idea of Community Learning Centres. These can be envisaged as a network of facilities, usually pre-existing, which offers regular support and services to students of all varieties in pursuing their learning goals. They would call for a new type of learning facilitator, and have the potential to be connected electronically to almost unlimited data sources and networks. Such centres would form an essential part of the infrastructure required for the realisation of the open learning approaches throughout the education and training system.

57. Prototypes of such centres already operate in some South African communities. In collaboration with provincial Departments of Education, other government departments and the array of stakeholders in youth and adult learning, the Ministry of Education wishes to explore their potential for shifting supported self-study into a new gear.

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Further Education and Training

58. The key to a successful integrated approach to education and training lies at the Further Education level. The developmental task of the Further Education sector is to address the inadequacy of programmes at the senior secondary level and above, both in school and out of school, in the workplace, in other institutions, or by private study.
59. Success in the RDP requires a comprehensive human resource development approach. Global changes in the industrial and service sectors of the economy require an increase in the general education component of vocational training and a concomitant increase in the ability of those in full-time education to develop applied and problem-solving skills. So far, however, in South Africa, education and training tend to operate separately in terms of provision, curricula, examination and qualification structures.
60. The Ministry of Education considers that the Further Education level needs to be planned as a comprehensive, interlocking sector which provides a purposeful educative experience to learners at the post-compulsory (post-GEC) phase, irrespective of age, place and time of delivery. There is immense scope, within the flexible structure of the NQF, for a modular curriculum of great variety comprising core general education and optional vocational or academic subjects. The scope for well-functioning distance education is considerable. This mode of learning is well suited to the huge numbers of out-of-school young people and unemployed adults for whom conventional school- type instruction is unappealing and inappropriate.
61. Because the further education concept is not well developed in South Africa and touches many institutional, economic and professional interests, the Ministry of Education is of the view that a National Commission on Further Education is needed to undertake the research, consultation and planning required to set this level of learning on an energetic growth path. The Commission would be expected to advise on the new institutional forms and resources which will be needed to revitalise learning at this level, and to accelerate the articulation between General Education, Further Education, and Higher Education as components of lifelong learning.

62. The Department of Education will consult its provincial counterparts through HEDCOM, the National Training Board and the Department of Labour, in order to invite their participation in preparing for this important initiative. A wide variety of stakeholder organisations, including the representative bodies of the teaching profession, secondary school principals, school governing bodies, parents and students, organised labour and business, the college sector, and open learning, distance education and media specialists, will be invited to advise on the Commission and its modus operandi.
63. In undertaking these preparations, the Ministry will give full attention to the substantial volume of research and development work which has already been done in connection with the National Training Board's National Training Strategy Initiative, and the multi-stakeholder National Investigation into Community Education (NICE).

Higher education

64. The national higher education system represents a major resource for national development, and contributes to the world-wide advance of knowledge. Important as its role is, the system faces several simultaneous challenges which require both short- and long-term policy responses.
65. The process of transformation out of the highly segmented apartheid mode is proceeding at different rates in different parts of the system and creating substantial stress. The system as a whole is dealing with the effects of rapid enrolment growth and simultaneous decline in the real value of subsidy from the state. Students are under chronic financial pressure, which is transferred to their institutions. The resulting actions and counter-actions have become a serious source of instability for the institutions and interrupted study for the students. The student body is increasingly representative of the broad population, and brings into the system the learning deficits accumulated in the Black schools.
66. The structure of higher education programmes is the inverse of what is required by the society and economy, with a small technikon sector, a relatively large university sector, and a poorly-developed and fragmented post-secondary college system, with inadequate articulation among the various parts. Higher education institutions are compelled to grapple with the consequences of poor secondary education among an increasing proportion of the students they admit, in particular the under-development of many students' language skills, science and mathematics, and the narrow range and often inappropriate combinations of subjects they bring to their choice of tertiary programme.
67. The 1993 Constitution has created uncertainty about how post-secondary education is to be planned, with universities and technikons being a national function and teachers, technical and other colleges being located under the provincial governments.
68. These and other significant issues which confront the sector are well known. The institutions are unable to resolve them on their own, individually or collectively, although substantial innovative and developmental work is being done.
69. The Ministry of Education is well aware of and upholds both the tradition and the legal basis of autonomous governance in parts of the higher education sector, especially the universities and technikons which fall within the sphere of the national government. The

- Ministry also has the responsibility to advise the government on whether this vast infrastructure of intellectual and professional endeavour, substantially supported by public funds, is yielding a good return to the nation, and how it might be assisted to do better.
70. No official enquiry into the whole of the post-secondary sector has ever been undertaken in this country. The new democracy needs to have confidence in its senior institutions of learning, especially given the massive influence which higher education exerts on the cultural, social, scientific, technological and professional formation of the country's leadership.
 71. Accordingly, after a prolonged period of investigation and consultation, the government has approved the Minister of Education's proposal to appoint a National Commission on Higher Education, and the commission has been appointed and begun its work.
 72. The commission's terms of reference cover the entire sector: its identity, goals, demography, structure, funding, governance, management, planning, programmes, size, qualification structure, articulation, intellectual and developmental role, and more.

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Early Childhood Development

73. Early Childhood Development (ECD) is an umbrella term which applies to the processes by which children from birth to nine years grow and thrive, physically, mentally, emotionally, morally and socially. ECD programmes include a variety of strategies and a wide range of services directed at helping families and communities to meet the needs of children in this age group. The care and development of young children must be the foundation of social relations and the starting point of human resource development strategies from community to national levels.
74. ECD is particularly crucial in the current context of reconstruction and development as impoverished families are not able to meet the developmental needs of their children without assistance. Many young children are at risk because their health, nurture and education cannot be provided for adequately from resources available within the community. RDP programmes which address the basic needs of families for shelter, water and sanitation, primary health care, nutrition, and employment, are therefore particularly vital, and their successful implementation will improve the life chances of young children, and enable families and communities to care for them more adequately. From this perspective, ECD depends on and contributes to community development, and the education of parents should go hand-in-hand with the education of children. Thus programmes for Adult Basic Education and Training and for ECD should be closely linked, and ECD programmes should help to empower parents with the knowledge and skills of effective parenting.
75. Since ECD is a multi-disciplinary field, the national and provincial Departments of Education need to establish formal inter-departmental committees on ECD with their counterparts in the Departments of Health and of Welfare and Population Development, and link these with RDP human resource development planning at national and provincial

- levels. The role of the inter-departmental ECD committees will be to develop and promote a comprehensive and multi-disciplinary approach to the welfare and development of young children from birth to nine years of age, and effective integration and promotion of ECD services for young children and their families. The committees need to work in full collaboration with the representative bodies of ECD practitioners, trainers and resource specialists, and with the large array of non-governmental organisations, development agencies and private sector bodies which have responded to the demand for ECD services, particularly in impoverished communities. At provincial level, the participation of local authority representatives will also be essential.
76. In the context of such multi-disciplinary collaboration, the Departments of Education have particular responsibility for the education components within an integrated ECD strategy. For this purpose, the national Department of Education has established a Directorate of Early Childhood Development and Lower Primary Education, and recommends that provincial Departments of Education do the same. Strong links between the national and provincial departments are essential in this as in all other fields.
 77. Within an inter-departmental and inter-provincial context, the national Department of Education's role is the development of national policy frameworks for the education of the young child, including the structure of provision, the determination of financial responsibilities, and the establishment of national norms and standards for ECD curricula and training.
 78. The Department of Education needs to be advised on these matters by an inclusive statutory consultative body which is fully representative of all sectors in the ECD field. The establishment of such a body is a departmental priority, and the department will consult widely on its composition and terms of reference.
 79. There is virtually unanimous agreement in the early childhood sector that the developmental needs of the young child are continuous from birth onwards, and require appropriate, developmentally-based educational responses, with as much continuity as possible between the home, the educare and pre-school phases, and the early years of schooling. This has important implications both for policy and for the kind of support which national and provincial departments of education should provide, a few of which can be briefly indicated.
 80. Firstly, the scope of ECD policy, and appropriate educational guidance and support for families and communities in need, should in principle cover the full early childhood phase from birth onwards, in collaboration with the other state departments with direct responsibility in this area, particularly Welfare and Population Development, and Health.
 81. It is essential to avoid introducing the young child prematurely and abruptly to formal learning, and in particular to attempt to do so in a language which the child does not understand. The young child's learning, in educare centres, pre-schools and in the early school grades, must be entrusted to teachers who have specialised training in the educational needs of this age group. The new Directorate of Early Childhood Development and Lower Primary Education, acting through the appropriate National Curriculum Committee, will therefore be responsible for coordinating the reshaping of curriculum frameworks and related advice on teaching methodology for early childhood for the purpose of setting national norms and standards. As with all curriculum work, this will be undertaken on the

basis of full participation by teachers and teacher educators in the field, with particular recognition for the fact that major contributions in this area have already been made by ECD resource and training agencies in the NGO sector, who must continue to play a leading innovatory and advocacy role.

82. Thus the Department of Education, working with provincial departments in the Heads of Education Departments Committee and all stakeholder organisations, will have the major responsibility for developing national educational policy for ECD, including the reception year. Provincial departments would take up the massive challenge of spearheading the phasing in of the policy, in conjunction with NGO providers and accredited training agencies. However, it must be emphasised that the role of the small number of national and provincial officials in the ECD field will be mainly facilitative. The centre of gravity of professional innovation, and the major responsibility for provision, will not lie with government departments but with non-government, community-based and private providers, resource and training agencies, operating within appropriate national and provincial guidelines.
83. State funds have been allocated to mount the startup phase and attract other funders. This process needs to be driven through a partnership of local government, community, business, worker and development agency interests, in order to build public awareness and develop a funding strategy for a national ECD programme. (See also chapter 13, paragraphs 21-28).

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Partnerships for human resource development

84. A recurring theme throughout this account of selected developmental initiatives has been the need to build partnerships for consultation, advocacy, planning and resourcing. It is not possible to list all parties to such partnerships, but it is important to name the main categories.
85. The Department of Education will play its role in the Human Resource Development Task Team of the RDP, which has responsibility for facilitating such partnerships. There are significant ties to be established between the Department of Education and the Departments of Health, Welfare and Population Development, Labour, Arts, Culture, Science and Technology, Environmental Affairs and Tourism, and the Public Service, in relation to the human resource development functions in which they have common interests.
86. As the whole of this document will testify, the Ministry and Department of Education are committed to strengthen working and consultative relations between themselves and their provincial counterparts, especially through the Council of Education Ministers and the Heads of Education Departments Committee, without intruding on the provincial domain.
87. In view of their constitutional position and national significance, the university and technikon sectors have a particular claim on the attention of the Ministry and Department of Education, which will be discharged through daily contact with the institutions and active cooperation with their representative statutory bodies.
88. The Department has a clear channel of communication with the teachers college principals

- through their national representative body and their participation in the Committee on Teacher Education Policy (COTEP).
89. The department has opened a constructive dialogue with the coalition of national organisations representing public, private and community colleges, including the technical college sector and organisations representing trainers and practitioners in the ABET field.
 90. There is a continuous communication with the Human Sciences Research Council (HSRC), in whose transformation process and restructuring the Department has a keen interest, particularly as it will affect the prioritisation of funding for research on education and education policy.
 91. The organised teaching profession has a particularly important role as an indispensable partner in educational change, and the Ministry and Department of Education will do all they can, in the Education Labour Relations Council, in the development of policy, and through the sharing of information, to maintain a frank and open relationship with the national teachers' organisations.
 92. In their different ways, the national organisations of school principals, students, parents, school governing bodies, independent schools, special education needs specialists, and subject or discipline specialists represent essential interests and sources of advice, and the Ministry and Department of Education intend to keep open the channels of communication with these bodies.
 93. The organised business and organised labour constituencies have participated actively in establishing the National Education and Training Forum, and have been key participants in the National Training Board's National Training Strategy Initiative, and the Inter-Ministerial Working Group of the Ministries of Labour and Education. Their respective roles in the conceptualisation of the National Qualification Framework, and initiatives in ABET and Further Education, testify to their strategic importance for the policy process.
 94. Many national non-governmental organisations (NGOs), community-based organisations (CBOs), religious organisations, development agencies, and research bodies have all expressed their wish to be associated with the process of transformation in the national education and training system. The Ministry and Department of Education welcome their cooperation with these bodies who between them represent such a significant part of the vital interests and human resources of civil society.
 95. Finally, a new field of partnership in international development cooperation has opened up for the South African education and training sector. The Department looks forward to a proactive, professionally-based and reciprocal relationship with external partners, for the benefit of the whole sector.

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Part 3 - The Constitutional and Organisational Basis of The New System

Chapter Six

Education and Training In The 1993 Constitution

1. The present Constitution, agreed to in multi-party negotiations, is the legal vehicle by which all South Africans achieved equal citizenship and voted a democratic Parliament into being. Parliament, sitting as the Constitutional Assembly, is required to adopt a new and permanent Constitution within two years, although provision is made to vary this period under certain conditions. The new Constitution will come into effect when it is assented to and promulgated by the President.
2. The elected government decides policy. Government policy is implemented in terms of laws passed by Parliament, from which government departments draw their authority to act. The Constitution is the supreme law, and no law passed by Parliament may be inconsistent with it. Thus all executive acts of government in pursuance of its policy are required to observe the provisions of the Constitution. Moreover, the Constitution binds all legislative, executive and judicial organs of state at all levels of government.
3. Several sections of the Constitution deal specifically with education, and others do so by implication. Taken together, these provisions of the Constitution guarantee a number of individual and collective educational rights, and prescribe or entail a completely new legislative, bureaucratic, and value framework within which the national and provincial governments are required to act in education matters.
4. However, the meaning and the implications of each of the provisions of the Constitution which relate to education are not straightforward. The Ministry of Education takes the view that the Constitution is a living instrument of justice in our society, whose meaning, however complex, needs to be established by government for purposes of policy and executive action. It is therefore the responsibility of the government, acting on the best advice it can get, to determine its policies in accordance with a conscientious interpretation of the meaning of the Constitution.
5. The government is bound to interpret the meaning of individual sections of the Constitution in a manner which
 - is balanced and reasonable
 - takes into account other relevant provisions of the Constitution
 - affirms the constitutional goal of a new order in our society
 - is consistent with the spirit of an open society based on democracy and equality
 - protects the fundamental rights, freedoms and civil liberties of all persons
 - upholds the collective rights of persons to language, culture, and religion based on non-discrimination and free association.
6. The Ministry of Education recognises that the constitutionality of any law or executive act of the government, and the meaning of any constitutional provisions, may be tested in a competent court and ultimately determined by the Constitutional Court. Nevertheless, the Ministry is of the view that it is the responsibility of national and provincial governments to take a lead in interpreting constitutional provisions, including those which appear unclear,

ambiguous or contentious, rather than waiting for court decisions to clarify the position. The Ministry of Education will strive in good faith to create policies which interpret the provisions of the Constitution in a balanced manner, and promote its broad intentions and values. In doing so, it will seek legal advice, commission research and investigations, promote open debate, undertake consultations and, if necessary and within reasonable limits, enter negotiations with interested parties, and thereafter seek Cabinet and Parliamentary approval for its proposals. In interpreting its obligations under the Constitution, the Ministry therefore undertakes to consult as widely as possible and establish the broadest level of social consensus consistent with the criteria in the previous paragraph.

7. Deciding education policy in line with the Constitution may pose problems of interpretation for the national and provincial governments in respect of the allocation of legislative competence between the two levels. If interpretations differ, the government believes strongly that every effort should be made by the parties concerned to find agreement rather than resort to litigation. The Ministry of Education will make continuing and determined efforts to find common ground between its own views and the views of all the provincial governments, especially with respect to the division of responsibility for education functions between the two levels of government. The Council of Education Ministers is an appropriate forum for such consultations and agreements.
8. The following chapters summarise important provisions of the 1993 Constitution which have a bearing on education and training matters. Where appropriate, an indication is given of how the Ministry of Education interprets both the meaning of constitutional provisions and its own responsibilities under the Constitution. These views represent the Ministry's best current understanding of the constitutional position. In some cases, the precise nature of the obligation imposed by the Constitution must be investigated and debated further.
9. The Ministry of Education will encourage a thorough public discussion on how education should be provided for in the new Constitution, and will do its best to ensure that the Constitutional Assembly gives the matter the attention it deserves.

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Chapter Seven

Fundamental Rights To Education and Training, and Within Education and Training

Introduction

1. The Preamble to the 1993 Constitution declares the:

"need to create a new order in which all South Africans shall be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to exercise their fundamental rights and freedoms."

2. Chapter 3 of the Constitution affirms and specifies the fundamental rights and freedoms of all persons. It binds legislatures and government organs at all levels, and it applies to all laws and administrative decisions and acts performed during the life of the Constitution. (section 7) In interpreting any law, a court is required to pay "due regard to the spirit, purport and objects" of chapter 3, and in interpreting chapter 3 itself, a court is obliged to "promote the values which underlie an open and democratic society based on freedom and equality". A court must also have regard to applicable public international human rights law, and may take into account foreign human rights case law. (section 35)
3. The government is in the process of examining all relevant international human rights conventions with a view to signing them and, where necessary, amending South African laws which contravene them. These international instruments include a number of conventions which deal partly or wholly with rights to education and the rights of the child, including the Convention Against Discrimination in Education (Unesco, 1960), the International Covenant on Economic, Social and Cultural Rights (UN, 1966), and the Convention on the Rights of the Child (UN, 1989). When ratified by Parliament, they will become part of South African law.
4. The Department of Education will commission a thorough examination of these instruments and their implications for South African education. It will examine also the implications of other important international documents such as the World Declaration on Education for All (World Conference on Education for All, 1990), the Charter on the Rights and Welfare of the African Child (OAU, 1992), and the Report of the International Conference on Population and Development (1994). Though not an international document, the South African Children's Charter (1992) falls in the same category for analytical purposes and deserves special attention. The government has decided, in conjunction with the United Nations Children's Fund (Unicef), to draw up a National Programme of Action for Children in South Africa, and the Department of Education will participate actively in this process.
5. The fundamental rights guaranteed in chapter 3 may be limited by laws of general application only to the extent that they are reasonable, justifiable in an open and democratic society based on freedom and equality, and do not negate the essential content of the right in question. (section 33)
6. Chapter 3 provides that alleged infringements or threats of infringement to any constitutionally entrenched human right may be brought to court for appropriate relief,

which may include a declaration of rights, by any person acting on his or her own behalf, on behalf of others, or in the public interest. (section 7)

7. The provisions of chapter 3 protect individual, group and institutional rights and freedoms which bear directly and indirectly on education. Every law, regulation, administrative decision or action for which any ministry, department or educational institution is responsible, must conform to these provisions. They should also satisfy the international conventions which South Africa in due course ratifies, and be informed by the relevant international human rights law.
8. The issues of interpretation which relate to the provisions affecting education are complex and difficult, and most are novel in South African law and administrative practice. The international law dimensions are little known to South Africans. In these circumstances, the possibility that educational authorities may unintentionally infringe persons' rights must be taken seriously. The Ministry of Education is obliged to ensure that its own house is in order. It also has a duty to stimulate specialist examination of the issues and implications, and take steps to open up the field to serious public discussion.

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The right to education

9. Section 32 expresses the right to education in these terms:

"Every person shall have the right -

- a. to basic education and to equal access to educational institutions
 - b. to instruction in the language of his or her choice where this is reasonably practicable
 - c. to establish, where practicable, educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the ground of race."
10. Four distinct educational rights are established here: the right to basic education, to equal access to educational institutions, to choice of the language of instruction, and to establish educational institutions of a certain character. Each right applies to "every person" without distinction. The ordinary meaning of each provision appears to be clear. However, the strict interpretation of each provision separately, and the relationships between them, is less so, as will be discussed below.
 11. The right to basic education. The right to basic education accorded in section 32(a) applies to all persons, that is to all children, youth and adults. Basic education is thus a legal entitlement to which every person has a claim. For children, the right would be satisfied by the availability of schooling facilities sufficient to enable every child to begin and complete a basic education programme of acceptable quality. For youth and adults, the availability of basic education would not necessarily be in the form of schools but in the form of education and training programmes appropriate to their age and personal circumstances. Attaining this

level of availability of opportunity for basic education will be an immense achievement in the reconstruction and development of the country.

12. Since the term "basic education" is not defined in the Constitution, it must be settled by policy in such a way that the intention of the Constitution is affirmed. An important question is whether basic education should be defined in terms of learning needs and outcomes, or qualification levels, or school grades, and whether the content of basic education needs to be the same for children, youth and adults.
13. The World Conference on Education for All, sponsored by the United Nations in 1990, addressed such questions in its authoritative World Declaration on Education for All. Article 1 of the Declaration makes the following statement on "basic learning needs":

"Every person - child, youth and adult - shall be able to benefit from educational opportunities designed to meet their basic learning needs. These needs comprise both essential learning tools (such as literacy, oral expression, numeracy and problem solving) and the basic learning content (such as knowledge, skills, values, and attitudes) required by human beings to be able to survive, to develop their full capacities, to live and work in dignity, to participate fully in development, to improve the quality of their lives, to make informed decisions, and to continue learning. The scope of basic learning needs and how they should continue to be met varies with individual countries and cultures, and inevitably, changes with the passage of time."

14. The Ministry of Education associates itself with this statement. Basic education must be defined in terms of learning needs appropriate to the age and experience of the learner, whether child, youth or adult, men or women, workers, work seekers or self-employed. Basic education programmes should therefore be flexible, developmental, and targeted at the specific requirements of particular learning audiences or groups, and should provide access to a nationally recognised qualification or qualifications.
15. The Ministry's position is that appropriately designed education programmes to the level of the proposed General Education Certificate (GEC), whether offered in school to children, or through other forms of delivery to young people and adults, would adequately define basic education for purposes of the constitutional requirement.
16. The Ministry of Education accepts that state authorities have a continuing obligation under the Constitution to take purposeful and effective action which would enable all persons to achieve the satisfaction of this right. Responsibility for the provision of education (other than technikons and universities) rests with the provincial governments. In meeting the constitutional obligation, which will be a formidable task, the national Ministry of Education intends to work closely in support of the provincial Ministries, on whom the main onus for planning and coordinating execution will fall, with the National Youth Development Commission, and with the proposed National Council on Adult Basic Education and Training.
17. The cost of the provision of schooling for all children to the GEC level, at an acceptable level of quality, must be borne from public funds. The cost of the provision of basic

education programmes for all young people and adults who require them cannot be borne by public funds alone, but must be shared among a variety of funding partners.

18. The right to equal access to educational institutions. Section 32(a) confers on all persons the right of equal access to educational institutions. The precise intention of this provision must be to establish a condition of equality and non-discrimination with respect to access to educational institutions. It is a provision which can only be satisfied by the exercise of equal and non-discriminatory admissions policies on the part of educational institutions. It is therefore reasonable to read this provision with section 8 of the Constitution, the right to equality, which provides that:

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"(1) Every person shall have the right to equality before the law and to equal protection of the law.

"(2) No person shall be unfairly discriminated against, directly or indirectly....

"(3) This section shall not preclude measures designed to achieve the adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of all rights and freedoms."

19. However, the exercise of equal and non-discriminatory admissions policies cannot be interpreted to mean that any educational institution is obliged to admit every person who applies to enter. Regulation of admissions to educational institutions must be permissible in terms of the limitation provision of the Constitution (section 33), which was reproduced at paragraph 5 above.
20. This document is not the place to specify constitutionally permissible exceptions to the right of equal access. These will need to be defined by legislation. However, limiting factors would include the physical capacity of the institution in terms of the applicable norms, the appropriateness of the educational programme for the applicant's needs, the applicant's gender in the case of single-sex schools, and the right to retain the specific character of an institution based on common language, culture or religion (which is discussed in paragraph 29 below).
21. The Ministry of Education understands the Constitution to require that the authority responsible for determining conditions for admission to an educational institution must apply those conditions equally to all applicants, without unfair discrimination on any grounds, direct or indirect. Moreover, section 8(3) specifically permits the application of measures, which would include special admissions regulations, which are designed to remedy the effects of past discrimination. The Ministry is of the view that the equality and anti-discrimination provisions of the Constitution should be observed and resolutely applied when an application is considered.

22. In the case of people with disabilities, the rights of access and protection from unfair discrimination have profound implications for the education system, and these merit urgent investigation. The Ministry of Education proposes to appoint a National Commission on Special Needs in Education and Training to address these and other important issues of policy in this field (see chapter 5, paragraph 35 above).
23. The Constitution makes special provision for the rights of children, including the right

"not to be subject to exploitative labour practices nor to be required or permitted to perform work which is hazardous to or harmful to his or her education, health or well-being." (section 30)
24. Exploitative child labour practices are symptoms both of extreme poverty, which often compels parents to put young children to work, or forces children to become homeless and vulnerable to abuse, and of the inadequate democratisation of labour relations and labour conditions in some sectors of the economy, particularly but not exclusively in rural areas. The symptoms are unlikely to disappear before the causes are overcome. However, many abuses have been the result of ignorance, inadequate public awareness, an ineffective regulatory environment, and a lack of urgency by state authorities. The abolition of exploitative child labour practices, and the monitoring and safeguarding of children's rights to education, health and well-being, will require research, advocacy and action on many fronts by many government departments and agencies, working with community organisations and NGOs, labour unions and employers' organisations.
25. The Ministry of Education will strongly support all such cooperative action. The national and provincial Ministries of Education are in a position to address the issue through the Council of Education Ministers. Legitimate governance structures at school and district level will provide the best mechanism through which action in the community can be coordinated, including monitoring and public education campaigns.
26. The situation of farm workers' children may be a special case, since a farmer may be at one and the same time the owner and the governing body of a farm school, the employer of workers whose children attend the school, and the source of instructions for child labour. The Review Committee on School Organisation, Governance and Funding (see chapter 12, paragraph 30 below) will be in a position to consider any relevant submissions on this issue, in particular from organisations representing farmers, farm workers, and farm school teachers and students.
27. The right to instruction in the language of choice. Section 32(b), provides for the right to instruction in the language of the applicant's choice, "where this is reasonably practicable". This is an extension of the general right accorded to every person "to use the language. . . of his or her choice" (section 31). The right to instruction in the language of choice would clearly, in the case of young children at least, be exercised on the child's behalf by the parents or guardian. This section protects the choice of mother tongue instruction, or of any other preferred language of instruction, provided the choice is reasonably practicable for the educational institution concerned.
28. This section has a direct bearing on the exercise of the right of equal access to educational

institutions, and thus the admissions policy and practice of all competent education authorities and educational institutions. The right of equal access, and the constitutional prohibition of unfair discrimination on any ground, specifically including language, appear to ensure that preference for a particular language medium of instruction cannot be a reason to refuse admission, provided the condition of "reasonable practicability" can be met. However, where an alternative institution is available to the applicant without undue hardship, offering tuition in the preferred medium, such refusal cannot be deemed to be unfair.

29. The right to establish educational institutions based on a common culture, language or religion. Section 32(c) provides for the right of every person (which in this case includes a juristic person)

"to establish, where practicable, educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the ground of race."

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This would also seem to be a specific extension of the general rights protecting religious belief (section 14), and language use and cultural participation (section 31).

30. The use of the phrase "based on a common culture, language or religion" implies that the culture, language or religion is the defining characteristic of the educational institution and its prospective clientele. Again, the interpretation of the right of equal access to educational institutions is affected by the right to establish institutions of this type.
31. The owner's competence to set admission policy cannot be disputed. Where a reasonable alternative exists, refusal to admit an applicant who rejects the defining characteristic of the institution cannot be deemed unfair, so long as the refusal is not made on grounds of race. However, an admission policy that is calculated to operate in a manner which, directly or indirectly, discriminates unfairly against an applicant or class of applicants cannot be permissible. It seems unlikely, therefore, that an otherwise qualified, bona fide applicant, knowing and accepting the nature of the institution, could be refused solely on the grounds that the applicant did not, at the time of application, share the cultural, linguistic or religious identity of the institution in question. An applicant's choice of language medium of instruction, on the other hand, would have to meet the test of "reasonable practicability".

Language and culture in education

32. Section 31, which provides for the right to use the language and participate in the cultural life of one's choice, and sections 32(b) and (c) which respectively provide for the right of language choice in educational institutions, and the right to establish educational institutions based on a common culture, religion or language, have already been referred to.

33. In addition to these fundamental rights to language and culture, language and culture matters are dealt with elsewhere in the Constitution: in chapter 1, section 3 (official languages), chapter 9, section 126 and Schedule 6 (provincial government competences), and Schedule 4 (Constitutional Principles). Chapter 1 includes a lengthy section on languages, the most important part of which provides a set of principles which must be observed in any legislation, policy and practice at any level of government, including:
- (a) The creation of conditions for the development and for the promotion of the equal use of all official South African languages; ...
 - (c) the prevention of the use of any language for the purposes of exploitation, domination or division;
 - (d) the promotion of multilingualism and the provision of translation facilities; ...
 - (f) the non-diminution of rights relating to language and the status of languages existing at the commencement of this Constitution. (section 3(9))
34. Afrikaans, English, isiNdebele, Sesotho sa Leboa, Sesotho, siSwati, Xitsonga, Setswana, Tshivenda, isiXhosa and isiZulu are declared the official South African languages at national level and "conditions shall be created for their development and the promotion of their equal use and enjoyment". (section 3(1))
35. Provincial legislatures are competent to pass legislation on language policy and the declaration of any national official language as an official language within a province, subject to relevant national legislation (section 3(5), and Schedule 6)
- 36 The underlying intention of the foregoing provisions is summarised in Constitutional Principle XI, which binds the Constitutional Assembly in its preparation of the final Constitution: "The diversity of language and culture is acknowledged and protected, and conditions for their promotion shall be encouraged."
36. Taken together, these provisions do not in themselves define a policy on language in education, but they provide entrenched language and cultural rights and state explicit language policy principles which bind national and provincial governments and must therefore underpin such a policy.
37. National policies which establish norms and standards for language use and language teaching in educational institutions will be required to aim positively at the promotion and development of all official languages, the non-diminution of language rights existing when the Constitution came into effect, equal respect for official languages, and multilingualism.
38. Language in education policy must accommodate the right to be instructed in a language chosen by the learner, where this is reasonably practicable. (section 32(b)) This right includes a parent's or guardian's choice of the mother tongue (or another language) as the

language medium for a child's education. However, if it is not reasonably practicable for a school to offer a particular language medium chosen by a learner, it can have no obligation to do so, especially if the school is based on a common language in terms of section 32(c). The onus would be on the applicant to change his or her language preference, or to apply to another school in the vicinity where the original language preference could be accommodated. The Ministry of Education encourages schools, which are willing and able to offer more than one language medium in order to accommodate parental or learners' preferences, to do so, in order to provide for the learner's right of choice of language medium.

39. Distinct provincial language policies are specifically protected, so long as they observe the language policy principles and language rights declared in the Constitution, and subject to the national government's legislative override on matters relating to norms and standards.
40. The development of national policy on norms and standards for language in education, including the language of learning (or medium of instruction) is a matter which is receiving urgent attention by the Coordinating Committee for the School Curriculum (see chapter 5, paragraph 18). The independent Pan South African Language Board will need to be consulted when it is established. (section 3(10))

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Freedoms of religion, belief, opinion and expression in education

41. Every person is guaranteed the right

"to freedom of conscience, religion, thought, belief and opinion, which shall include academic freedom in institutions of higher learning." (section 14(1))

This individual right does not negate the right of a person, including a legal person, to establish an educational institution based on a common religion, in accordance with section 32(c). Such an institution may not demand religious observances from students who wish to exercise their freedom of conscience.

42. Every person is guaranteed the right

"to freedom of speech and expression, which shall include freedom of the press and other media, and the freedom of artistic creativity and scientific research." (section 15(1))

In addition,

"All media financed by or under the control of the state shall be regulated in a manner which ensures impartiality and the expression of a diversity of

opinion." (15(2))

43. The letter and spirit of these rights and freedoms should inform the intellectual culture in all schools and educational institutions, and professional services in departments of education. This has unavoidable implications for curricula, textbooks, other educational materials and media programmes, teaching methods, teacher education, professional supervision and management culture.
44. The constitutional guarantees of freedom of conscience, religion and belief, which bind all acts and administrative actions of government departments, including education, have particularly important consequences for a school and college system which has been dominated in the past by a state-supported national-religious educational philosophy. A substantial exercise may be required in order for the implications of the constitutional requirements to be analysed, debated, and translated into new guidelines. This matter should engage the relevant professionals in the national and provincial education departments, and teacher education establishments.
45. The Constitution affords protection to education institutions based on a common culture, language or religion, as has been discussed above. The circumstances under which religious observances may be conducted in state and state-aided educational institutions are covered by section 14(2):

"Without derogating from the generality of the right of freedom of conscience etc. religious observances may be conducted at state or state-aided institutions under rules established by an appropriate authority for that purpose, provided that such religious observances are conducted on an equitable basis and attendance at them is free and voluntary."

Special provisions regarding educational institutions

46. The Constitution includes, at section 247, special provisions which are designed to prevent national or provincial governments from making summary changes in the rights, powers and functions of the governing bodies of state or state-aided schools, technikons and universities, and which require governments to make equitable financial provision for state and state-aided schools in order to ensure an acceptable quality of education.
47. Section 247 is not part of Chapter 3, but like all other constitutional provisions, it is subject to the fundamental rights provided in chapter 3. The implications of chapter 3 rights for the governing bodies of schools covered by section 247 have become a matter of considerable public concern which needs thorough and dispassionate investigation.
48. This matter, and others connected with the pattern of organisation, governance and funding of schools, is discussed in more detail in chapter 12 below. The Minister of Education, with the agreement of the Council of Education Ministers, is establishing a special committee to review and advise on these questions and report in mid- 1 995.
49. Meanwhile, without prejudice to the findings and recommendations of the Review Committee, the Ministry of Education wishes to make clear its view that educational

institutions in receipt of public funds, in particular state and state-aided schools of whatever type, have an obligation to observe scrupulously the provisions of the Constitution with respect to rights such as non-discrimination and equal access to educational institutions (sections 8 and 32). The duty of public educational institutions is to facilitate the access to education of all eligible members of the public, not to frustrate such access.

50. The right of all persons to basic education and to equal access to educational institutions must be upheld within the terms of chapter 3 of the Constitution. As the preceding discussion has made clear, the interpretation of these rights in particular cases may need to be balanced against the right of a learner to choose the language of instruction where this is reasonably practicable, or the right to establish an educational institution based on a common language, culture or religion, where this is practicable. In the case of public schools, whether state or state-aided, eligibility for admission should be defined principally in terms of the educational need of the applicant and the capacity of the school to meet that need, on the grounds that it is the duty of schools to educate. However, a school cannot be obliged to admit an applicant if, when all circumstances of the case are taken into account, a school in the vicinity which would more suitably meet the applicant's needs is able to do so.
51. The Ministry of Education is mindful of the need for each school to maintain the highest possible standard of education of which it is capable under the circumstances in which it finds itself. However, the maintenance of standards cannot under any circumstances justify admissions policies which are designed, directly or indirectly, to exclude applicants from the basic education to which they are entitled by right.

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Other rights of the person

52. The rights of all persons to equality, human dignity, freedom and security of the person, privacy, assembly, demonstration and petition, association, political activity and choice, access to information and administrative justice, and the rights of children (sections 8, 10, 11, 13, 16, 17, 21, 23 and 24) have a direct or indirect bearing on the administrative and professional conduct of the education system.
53. Management practices, relations between school principals and their staffs, between teachers and students, between schools and parents, campus rules, disciplinary culture and procedures, student organisation, and much else, must come under the microscope in order to ensure compliance with the nation's new constitutionally-protected human rights culture.

Labour relations

54. Section 27 guarantees every person rights to fair labour practices, workers' rights to form and join trade unions, employers' rights to form and join employers' organisations, workers' and employers' rights to organise and bargain collectively, workers' right to strike for the purpose of collective bargaining, and employers' recourse to the lock-out for the purpose of

collective bargaining.

55. The Education Labour Relations Act (1993) has established the Education Labour Relations Council as a collective bargaining and consultative forum for teachers and their employers in the state and state-aided sectors. Like all new legislation, this Act needs scrutiny in the light of practice, especially in regard to the constitutional, governmental and organisational changes which have come about since the measure was negotiated and enacted. The implications of the new Labour Relations Bill, published by the Minister of Labour for consultation, are being carefully considered. The Department of Education will consult the provincial Departments of Education and other employers of educators on this matter and looks forward to a full and open examination of the issues with the organisations of the teaching profession. The Ministry of Education is of course committed and also legally bound to uphold the rights guaranteed in section 27 of the Constitution and all other constitutional provisions relating to employment.
56. These provisions, while vital in the sphere of collective bargaining, do not exhaust the relations between educators and the Ministry of Education. In their professional capacity, individual educators, and, where appropriate, the organisations which represent them, have indispensable roles to play in many specific fields such as curriculum renewal and school governance, as well as in the broader arena of policy advice.

An Action Plan for Human Rights in Education

57. The 1993 Constitution is the nation's school of democratic practice. The implications of the fundamental rights provisions for the conduct of the education and training system are not yet generally well understood, yet the rights and freedoms belong to all citizens and bind all government departments and educational institutions operating under law. The Ministry of Education would like to see the full resources of the nation's education system mobilised in support of the practice of fundamental rights, freedoms and responsibilities which the Constitution promotes and protects.
58. It would be appropriate to begin with a frank and searching self-examination, within every department and institution of the education system, of its own practice, tested against the Constitution's fundamental rights requirements. Information packs and checklists would need to be prepared in advance, and workshopped at all levels of the system. The self-examination should result in action plans within each school and educational institution, and within each branch and section of the education services at national and provincial levels. Implementation, reporting and evaluation should follow in a regular sequence, so that there is a purposeful, incremental improvement in human rights practice throughout the system.
59. It needs to be emphasised that the two objectives of the exercise are extremely serious. They are: to enable the charter of fundamental rights to become a vital element in the lives of every student, educator, manager and support worker in the education system; and to ensure that no education department or institution impairs or denies the rights of any person through ignorance of its responsibilities. There is absolutely no desire or intention on the part of the Ministry of Education to conduct or inspire witch-hunts, or to create a mentality of surveillance. Such actions would be a denial of fundamental rights and the precise

opposite of what is needed.

60. The Ministry will consult the Council of Education Ministers, the technikons and universities, the National Education and Training Forum, and national teachers', students', and parents' organisations, and seek their views, advice and cooperation in implementing this Action Plan on Human Rights in Education in a way which offers the best prospect of success.
61. The objectives of this proposal are fully consistent with the terms of reference of the Human Rights Commission which will be established under the Constitution. The Ministry of Education will seek the advice and support of the Commission for its proposal, and explore with the Commission other ways in which the national education system might become associated with its work.

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A Gender Equity Unit

62. The Constitution recognises the specific nature of gender inequality by establishing a Commission on Gender Equality. The national education system represents the single largest organisation in the nation. By virtue of its educational function, it has great potential influence on gender relations and on the respective career paths of men and women. However, within the education system there are worrying disparities between girls and boys, and many girls and women suffer unfair discrimination and ill-treatment.
63. Boys and young men drop out of school at a far higher rate than girls and young women. Girls and young women exhibit significantly narrower subject and career choices than boys and young men. Women are overwhelmingly represented in the teaching service, but are poorly represented among the ranks of school principals, and are barely visible in middle and senior management positions in education departments. Such phenomena have long histories and complex causes. The reasons for the poor representation of women in educational management are probably to be found as much in the values and gender role patterns of South African families and communities, as in the patriarchal culture of the South African bureaucracy.
64. At another level of gender relations, in many schools and other education institutions, including the most senior, social relations among students, and between staff and students, exhibit sexism and male chauvinism. Sexual harassment of girl and women students and women teachers, as well as acts of violence against women, are common in many parts of the education system, both on and off campus.
65. This entire situation must change. While appreciating that the problems are deep-seated within the society at large, the Ministry of Education believes that educators must show leadership in tackling them, and that the place to begin is within the education system itself. The Ministry is confident of forging a strong partnership between itself and the provincial Ministries of Education on this issue, and will seek collaboration also from the technikons and universities. The understanding and support of organisations of the teaching profession and student organisations will be greatly welcomed.

66. As a first step, the Ministry of Education proposes to appoint a Gender Equity Task Team led by a full-time Gender Equity Commissioner who shall report to the Director-General. The terms of reference of the Task Team will be to investigate and advise the Department of Education on the establishment of a permanent Gender Equity Unit in the Department of Education, initially with seconded or attached staff. In cooperation with provincial Departments of Education, through the Heads of Education Departments Committee, the Gender Equity Unit will study and advise the Director-General on all aspects of gender equity in the education system, and in particular:
1. identify means of correcting gender imbalances in enrolment, dropout, subject choice, career paths, and performance
 2. advise on the educational and social desirability and legal implications of single-sex schools
 3. propose guidelines to address sexism in curricula, textbooks, teaching, and guidance
 4. propose affirmative action strategies for increasing the representation of women in professional leadership and management positions, and for increasing the influence and authority of women teachers
 5. propose a complete strategy, including legislation, to counter and eliminate sexism, sexual harassment and violence throughout the education system
 6. develop close relations with the organised teaching profession, organised student bodies, the Education Labour Relations Council, national women's organisations, and other organisations whose cooperation would be essential in pursuing the aims of the unit.
67. The Gender Equity Commissioner will be expected to establish close working relations with the national Commission on Gender Equality.
68. These proposals have been strongly supported by the public in their submissions on the draft of this document. The Ministry of Education intends to put them formally to the Council of Education Ministers without delay, to request their support for cooperative action on gender equity, and their consideration for a similar line of action within the provincial ministries. Similar requests will be made to the representative bodies of technikons and universities, and to the organisations representing teachers and students.

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Chapter Eight

National and Provincial Powers In Education and Training

Introduction

1 The new system of education will be a single national system which is largely organised and

managed on the basis of nine provincial sub-systems. The Constitution has vested substantial powers in the provincial legislatures and governments to run educational affairs (other than universities and technikons) subject to a national policy framework. The essence of the relationship between the national and provincial governments is co-operative.

2 That being so, the Ministry of Education is acutely sensitive to the need for the closest possible co-operation between the national Department of Education and each of the provincial education departments on matters relating to the formulation of national education policy and the effective management of the system.

3 This chapter describes how the co-operation between national and provincial governments in the field of education will be managed. It then explains how the Constitution assigns legislative responsibility for education and training matters between the national and provincial levels. The chapter concludes with an account of the national Department of Education's role in shaping the new system.

The Council of Education Ministers and the Heads of Education Departments Committee

4 Two bodies have been created to enable the ministries and departments to share information and advice, and to collaborate on plans for the transition to provincialisation and the future direction of the national system.

5 The first of these is a Council of Education Ministers (CEM), which comprises the national Minister of Education, the national Deputy Minister of Education, and the nine provincial Ministers of Education. It has met monthly since May 1994, and will continue to meet regularly to ensure an optimum level of dialogue between the persons who have responsibility for the education portfolio throughout the country. The CEM will be an important forum for clarifying the constitutional division of responsibility for education between the national and provincial legislatures. It will also provide a unique and invaluable inter-provincial perspective on the development of national education and training policy.

6 The second structure is a Heads of Education Departments Committee (HEDCOM), which from January 1995 consists of the heads of the national and the nine provincial Departments of Education. This body will advise the national Minister of Education and the Council of Education Ministers, and will provide a regular forum for the administrative heads of education departments to consult and collaborate in the interests of the system as a whole. Significant investigative work will also be undertaken on policy matters referred to HEDCOM by the national Minister of Education and the CEM.

7 The new HEDCOM replaces the Committee of Heads of Education Departments (CHED) which, in the past, brought together the heads of the ethnically-based executive departments and the former Department of National Education. To provide a bridge to the new HEDCOM, to enable

essential planning to be done for the establishment of provincial departments, and to prepare for the 1995 school year, the old body was expanded with representation from the national Minister's and nine provincial Ministers' offices.

8 The Ministry of Education intends to table legislation during the 1995 Parliamentary Session which will provide a statutory basis for the Council of Education Ministers and the new Heads of Education Departments Committee, and the small secretariat they will require. These structures are important vehicles of cooperation between the national and provincial levels of government. The conceptualisation and drafting of the legislation will need to be done collaboratively, and must express without ambiguity the respective competences and functions of the national and provincial authorities, and the terms of their co-operation.

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Legislative powers in education

9 Education at all levels, excluding university and technikon education, is listed in Schedule 6 to the Constitution as one of the "functional areas" in which provincial legislatures are competent to make laws, subject to a rather complex set of rules. (section 126) There is no doubt that the intention of the Constitution is to empower provincial governments with executive responsibility for education within their provinces (other than universities and technikons), subject to the national government's responsibility to protect essential national interests.

10 The following propositions attempt to interpret the effect of the constitutional provisions concerning legislative competence and executive authority as they apply to the field of education. (sections 37, 126 and 144)

(1) Provincial legislatures may make laws on any aspect of education except universities and technikons, in accordance with the Constitution. A provincial law may apply only in that province, unless an Act of Parliament determines otherwise.

(2) The national Parliament may make laws on any aspect of education, in accordance with the Constitution. Its laws apply throughout the country. Only the national Parliament is competent to legislate on universities and technikons.

(3) Where both a provincial law and a national law deal with education other than universities and technikons, the provincial law will prevail except in so far as the national law

(a) applies uniformly throughout the Republic

(b) deals with a matter which cannot be regulated effectively by provincial legislation

(c) deals with a matter which requires uniform national norms or standards in order to be performed effectively

(d) is necessary to set minimum national standards for rendering public services

(e) is necessary for the maintenance of economic unity, the protection of the environment, and the protection of the common market between provinces in respect of the mobility of goods, services, capital or labour.

(4) A national law on education, other than universities and technikons, will prevail over a provincial law to the extent that the latter materially prejudices the economic, health or security interests of another province or the country as a whole, or impedes the implementation of national economic policies.

(5) A provincial and a national law dealing with education other than universities and technikons will be construed as being consistent with one another except in so far as part or all of one law is "expressly or by necessary implication" inconsistent with the other.

(6) A provincial legislature may recommend to Parliament the passing of a law on a matter

(a) in which it has no competence, such as universities or technikons, or

(b) in respect of which a national law prevails over a provincial law in terms of the circumstances outlined at (3) and (4) above.

Parliament need not comply with the recommendation.

(7) Training is not referred to as such in the body of the Constitution or listed in Schedule 6. (The national Ministries of Education and of Labour are consulting each other over the identification and location of training functions.)

(8) The national Parliament may make laws which delegate certain education or training responsibilities to provincial governments.

(9) In the event of a dispute of a constitutional nature between organs of state at any level, including a dispute between the national Parliament and a provincial legislature concerning the exercise of legislative competence, the Constitutional Court has jurisdiction to determine the matter.

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11 The Ministry of Education is determined to help make these provisions work effectively, for the

benefit of the entire national system of education. The Council of Education Ministers is the forum which will permit regular reviews of the common interests of the national and provincial Ministers. Any difference of interpretation with respect to their respective powers and responsibilities can be examined and, in principle, resolved by that body.

12 There is an obvious advantage in reconciling both the views and the proposed legislation of the national and provincial Ministers of Education. All draft legislation prepared by the national Department of Education which bears on the competence of provincial Ministers will be submitted to the Council of Education Ministers for advice. The Ministry of Education would welcome a reciprocal arrangement by the provincial Ministries of Education.

13 Close co-ordination will be required in another sphere: between the Department of Labour on the one hand, and the national and provincial education departments on the other, with respect to their common interests in the training function. A permanent inter-Ministerial Working Group has been proposed, to manage all aspects of the relations between the two sectors.

14 The overall management of training policy is of the greatest strategic importance for the human resource development programme of the RDP. The Ministry of Education looks forward to concluding its discussions with the Ministry of Labour and key stakeholders (organised business, organised labour and the National Training Board) on the National Qualification Framework Bill, and the practical implications of the constitutional assignment of functions for the implementation of an integrated approach to education and training.

15 There is urgent need for both Ministries to clarify the practical implications of the constitutional assignment of functions for the implementation of an integrated approach to education and training. In particular, all parties concerned need to decide how education and training programmes falling under provincial education departments (in particular, secondary, adult, technical, community and teacher education) will engage with the labour-market related training services for which the national Department of Labour has portfolio responsibility.

Role and functions of the national Department of Education

16 Since legislative competence in education (other than technikons and universities) has been assigned to provincial legislatures, the Ministry of Education wishes to state its views on the education functions which must be undertaken at the national level.

17 The Minister will uphold the Constitutional Principle which requires that the allocation of powers to the national and provincial governments in the new Constitution be made on a basis

"which is conducive to financial viability at each level of government and to

effective public administration, and which recognises the need for and promotes national unity and legitimate provincial autonomy and acknowledges cultural diversity."

In particular, the Minister is sensitive to the criterion that decision-making and rendering of services should be assigned to the level of government where they can be undertaken most effectively. (Schedule 4, XX)

18 The national functions described below, therefore, do not impair or infringe upon the legislative or executive competence conferred on the provinces by the Constitution. One of the main duties of the national Department of Education is to facilitate and support the work of the provinces.

19 Education matters at national level are dealt with by the Minister of Education and his Deputy Minister, assisted by the Department of Education.

20 A national Department of Education has the responsibility to make a definite impact on education in the country as a whole. It does so in part by preparing the general policy of the government on education. Policy must underlie the preparation of the norms and standards in education for which the department is responsible, and the department's advice on budget allocations for all education services, national and provincial. Relations with provincial departments of education must be guided by the national policy on education within which the provincial departments develop their own policies, set their priorities and implementation programmes. The department's interaction with the Reconstruction and Development Programme is undertaken in terms of its general policy on an integrated approach to education and training.

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21 With these considerations in mind, the role of the Department of Education, in terms of the functions assigned to it, will be:

To promote the translation of the education and training policies of the Government of National Unity (including the Reconstruction and Development Programme), and the provisions of the Constitution, into a national framework within which higher education institutions and provincial education departments can make the most effective contribution to the development of the nation's human resources.

22 In undertaking its role, the Department of Education is empowered by the Constitution, either specifically or by inference, to:

(1) Promote compliance with the constitutional guarantees relating to education: basic education for all persons; equal access to educational institutions; non-discrimination in the system; protection of linguistic, cultural and religious diversity; protection of academic freedom; equitable funding;

- (2) Establish and maintain a national Education Management Information System (EMIS), collaborate with the Department of Labour and other departments in extending the system to cover information on training provision and performance, and manage an appropriate research and development programme, in order to determine national needs, encourage and evaluate innovation, and monitor delivery and performance;
- (3) Establish norms and standards with respect to curriculum frameworks, standards, examinations and certification;
- (4) Establish a National Qualification Framework to ensure uniformity of standards and compliance with minimum standards across all fields of learning, and to promote access and mobility of learners within the education and training system;
- (5) Establish norms and standards for equitable funding of educational provision, and for the employment and deployment of educators;
- (6) Advise the Financial and Fiscal Commission, in consultation with the provincial governments, on the requirements for equitable financing of education in the provinces and among provinces, including the resource implications of the maintenance of national norms and standards, and the provision of conditional or unconditional financial allocations to the provinces from national revenue, in line with national and provincial needs and priorities;
- (7) Provide assistance to the provincial governments, where required, for the maintenance of minimum standards of public service in education;
- (8) Establish co-operative relationships with other departments with which the Department of Education shares common interests, particularly the RDP Office, the Department of Labour (in respect of training, career guidance and the NQF), the Departments of Health, and Welfare and Population Development (in respect of school nutrition, early childhood development, education support services, AIDS education, population education), the Department of Arts, Culture, Science and Technology (in respect of Library and Information Services, the educational role of museums, school art and culture programmes, language development, the promotion of science and technology, and research funding policy), the Department of Environmental Affairs and Tourism (in respect of environmental education), the Department of Sport and Recreation (in respect of sport development in educational institutions);
- (9) Conduct international relations in the education field, in cooperation with the Departments of Foreign Affairs, the RDP Office and the Department of Finance in the case of external financial assistance, and other departments in the case of shared international professional interests;
- (10) Maintain co-operative relations with provincial Departments of Education with respect to all of

the above functions;

(11) Maintain close co-operation with the university and technikon sectors, for which the Department of Education has direct responsibility.

23 The process, specified in the Constitution, by which the new national and provincial departments of education are being constructed from the former structures, is described in the following chapters.

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Chapter Nine

The Transition To New National and Provincial Departments

Introduction

1 The public management of education in South Africa is in the throes of massive change. This chapter describes the process of provincialisation of the system, which is taking place alongside the creation of a new national Department of Education. The establishment of new provincial departments means assembling nine different jigsaw puzzles from the pieces of ethnic administration located in those provinces, and connecting different personnel and other vital systems together so that single coherent provincial education departments can function.

2 This chapter describes how this process is being managed, identifies the risks and the opportunities involved, and sets out how the Ministry of Education believes these can be responded to. The chapter concludes with an account of what is being done to prevent serious disruption of the delivery of educational services while the new national and provincial departments are being established.

3 Budgetary and financial matters are reserved for discussion in Part 4.

The rationalisation process

4 The government is committed to the establishment of a lean yet effective system of educational administration. In terms of the 1993 Constitution, the ethnically-based education departments or services responsible for providing education under the previous Constitution are being dissolved and their functions and personnel rationalised into nine new non-racial provincial education departments. Once the provincial departments have been consolidated and their staff

establishments rationalised in line with the government's policies, the new structure of organisation will be considerably less complicated and should be more cost-effective than the one it replaces.

5 At the national level, the education functions of the former Department of National Education, which had been responsible for education policy (including norms and standards), information and budgets, have been absorbed into the new national Department of Education. The new department has taken over the functions of the Education Co-ordination Service, whose mandate was to make technical preparations for the provincialisation of education services. The new single Department of Education has been redesigned, in consultation with the Public Service Commission, to make it more suited to meeting the national need for a reconstructed education system.

6 The process of amalgamating existing ethnically-based departments into new provincial education departments is extremely complex. It is perhaps one of the larger and more difficult exercises in organisational change to have been attempted anywhere in so short a time. Structural disparities and inequities between the existing departmental organisations have to be eliminated in the new provincial departments. Uniform payroll, personnel, accounting, logistical and information systems must replace the variety of management systems which the present departments employ.

7 While the unification process is proceeding in each province, the management and staffing of the education system must continue to function, and schools and colleges must do their work, with as little interruption as possible.

8 The Ministry of Education is convinced that until structural amalgamation has taken place it will be impossible to ensure the development of an equitable, accessible and effective education system. The creation and smooth operation of a new national Department and nine new provincial Departments of Education, working in close liaison with each other, is therefore a fundamental policy objective of the Ministry.

9 Provincial Ministers of Education, with political accountability for education other than university and technikon education in their provinces, have been in post since May 1994. In the absence of single provincial Departments of Education, each minister has been obliged to work with the inherited ethnically-based education departments or part-departments operating within their provinces, and have set up suitable transitional structures and strategic management teams to handle liaison and forward planning.

10 The Ministry of Education, in cooperation with the Public Service Commission, has facilitated the assignment of political responsibility for existing education laws to political office-bearers in the provinces. The appointment of permanent provincial heads of education departments, together with key financial, administrative and personnel staff, is now extremely urgent, both to provide advice to provincial ministers and to assume responsibility for the creation and management of provincial departments. Such appointments are a prerequisite for the development of an education system which is free from discrimination on any grounds whatsoever, which is fully accountable

and efficiently organised, and which is recognised as legitimate by the public it serves.

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Creating a new national education department

11 The legislative basis of a national Department of Education has been laid by Presidential Proclamation, and a Director-General has been appointed. The education functions of the former Department of National Education (which has ceased to exist) have been phased into the new department. National-level functions (notably accountability for university and technikon matters) previously held by other education departments have been transferred to the Department of Education.

12 The Department of Education will have the necessary infrastructure to enable it to play its essential role in the reconstruction of the education system in South Africa. The Ministry is committed to the finalisation of the process of restructuring and rationalising the new department in the shortest possible time. Affirmative action principles are being applied in making appointments and promotions in the new department, in accordance with the policy of the Public Service Commission for the rationalisation of the public service and the improvement of representivity. Employees' constitutional and statutory rights will be fully upheld.

13 These measures comply with the constitutional requirements to

"promote an efficient public administration broadly representative of the South African community (section 212 (2) (b)),

and to take into account

"the qualifications, level of training, merit, efficiency and suitability of the persons who qualify for the appointment, promotion or transfer concerned. . . ." (section 212 (4))

14 The organisational structure of the new department was proposed to the Public Service Commission and agreed. It reflects its responsibilities under the 1993 Constitution and accommodates many of the Ministry of Education's policy imperatives, but not all. The structure is not final. It marks a stage in a developmental process.

15 The new department will soon reflect a wider range of perspectives as it becomes more representative of the broad population. New needs will become apparent as it responds to the challenges of educational reconstruction. The department's responsibilities in the field of training will be re-assessed once the agreement between the Ministers of Education and Labour on this matter has been approved by the Cabinet. Adjustments may be needed when the rationalisation process ends and the new provincial departments become fully operational. The structure of the department will therefore be kept under review, and changes will be made when necessary in the interests of better policy development and implementation.

16 For the time being, the new Department of Education will be organised in three branches: Education and Training Systems and Resources, Education and Training Programmes, and Education and Training Support, which will work in close cooperation with each other.

17 Education and Training Systems and Resources. This branch will be responsible for researching, planning and evaluating the overall design, coordination and performance of the education and training system, and providing leadership in the policy applications of innovative solutions to national learning needs, such as open learning. This branch will service the Council of Education Ministers, the Heads of Education Departments Committee and other consultative bodies established by statute or otherwise. It will co-ordinate the relations of the national and provincial departments with the Reconstruction and Development Programme. It will manage international co-operation in education and training within the Department's competence, including development co-operation, and relations with international organisations in education and training. It will develop and maintain the Education Management Information System in collaboration with provincial departments of education, undertake human resource development planning to assess demand for education and training services, and will be responsible for national financial planning and budget development.

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18 Education and Training Programmes. This branch will be responsible for coordinating preparatory work on the draft legislation for the National Qualification Framework (in collaboration with the Inter-Ministerial Working Group and with the Ministry of Labour). It will be responsible for the research and development of national norms and standards for educational programmes across the spectrum at all levels. The co-ordination of new developmental initiatives will be done in this branch, in areas like Early Childhood Development, Adult Basic Education and Training, Vocational and Community Education and Training, Distance Education, and the educational applications of Electronic Media and Telecommunications. The feasibility study for a National Institute for Curriculum Development, and preparations for the National Open Learning Agency will be launched here. With regard to universities and technikons, the branch will deal with programme policy and provide management support services, including with respect to the execution of financial policy. It is also the responsibility of the branch to develop standards for educator programmes.

19 Education and Training Support. This branch will be responsible for all service matters affecting educators, and for managing labour relations, including the department's dealings with the Education Labour Relations Council. The branch will also be equipped to deal with the department's internal and external communication needs, and its administrative, legislative and financial requirements.

20 The modus operandi of the relationship between the national and provincial education departments is of vital importance. Since all of these structures will be new, it is to be expected that management and communication systems will evolve over time with a certain amount of trial and error. However, the working relationship between the two levels will need to be as thoroughly planned as possible. The Heads of Education Departments Committee will provide the appropriate forum for this to be arranged.

Creating new provincial education departments

21 Planning for the establishment of new provincial education departments is being undertaken by the provincial Ministries of Education in close liaison with the national Ministry and Department and heads of the former executive departments, both by direct consultation and through the Council of Education Ministers and the Heads of Education Departments Committee.

22 Since the creation of provincial education departments is part of the even broader process of establishing provincial administrations and rationalising the public service, the Public Service Commission, the offices of the Provincial Premiers, Provincial Service Commissions (where these are in place), and the Commission on Provincial Government, are important partners in the process.

23 Each provincial department will be a completely new structure. In principle, none of the former departments operating in a province should dominate or absorb the others. Bringing the new provincial education departments into being will require:

- The amalgamation of all the existing education departments or part- departments, operating within the boundaries of a province, into a single provincial departmental structure.
- The disestablishment of the head offices of the former Department of Education and Training (DET) and the three Education and Culture Services (ex Assembly, Delegates and Representatives), and the assignment of relevant posts to the nine provincial education departments.
- The combination of the head offices of the education departments in the former SGTs and TBVC territories with part-departments operating within a province.
- The disestablishment of the head offices and regional offices of departments which formerly operated across the borders of new provinces (Bophuthatswana, Transvaal Education Department, Cape Education Department, and the DET Regional Offices) and the assignment of the relevant posts to the new provincial education departments.
- Once the process of assigning posts to the new departments has been completed, the

rationalisation of posts will be undertaken by the provincial authorities concerned, in consultation with the Commission on Provincial Government and Provincial Service Commissions, where these are already in place.

- The reorganisation, over a period of time, of all education structures within a province at the regional and sub-regional level into a new system of sub-provincial management.

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24 The Ministry of Education is aware that the 1993 Constitution gives national departments no locus standi with respect to the process of departmentalisation at provincial level. These matters are the responsibility of provincial governments, the Provincial Service Commissions where they exist, the Public Service Commission and the Commission on Provincial Government. However, the Ministry of Education has a clear interest in the departmentalisation process, and has established a provincialisation task team to work in collaboration with the new provincial departments in order to facilitate the winding up of the old ethnic departments, the efficient transfer of functions, staff and assets, and the establishment of effective administrative systems. Agreements already concluded between the national and provincial Ministers of Education will enable agency services to be provided on request should these be needed.

25 In undertaking this process of amalgamation and rationalisation, the constitutional requirement, to promote a non-partisan, efficient, and broadly representative public service, will be upheld. The Ministry of Education appreciates that the process of creating new departments will affect very large numbers of staff members. Their rights in law, subject to the provisions of the Constitution, will be fully recognised.

Staffing the new departments

26 The reallocation of education functions between the national and provincial levels of government will require that personnel establishments and organisational structures of education departments be totally revised.

27 Past discrimination has led to serious inequities in the distribution of education managerial capacity both within and between provinces. In the process of disestablishing former central departments of education, it is important to ensure that as far as possible the available managerial capacity is equitably distributed.

28 The administrative structures of the previous departments will not apply. At every level beyond the school-whether in circuits, districts or areas-new structures will be needed, including new head offices.

29 The Ministry recognises that the location of provincial capitals could in certain instances place the personnel of some former education departments at an advantage when new head offices are

established. The structuring of new head offices and the staffing of sub-structures in the province should as far as possible draw personnel from all previous departments within the province.

30 While the processes of creating provincial education departments are a primary responsibility of the provincial governments, the Ministry of Education believes that the new single provincial education departments (like the new single national department) will fail the test of public acceptability if there is not a demonstrable equity in the recruitment and placing of personnel.

31 The staffing of the new education bureaucracy must be guided by the constitutional principles of representivity, non-partisanship, and expertise. With sensitivity to previous discrimination, qualified people who were previously unable to gain access to the education public service must be recruited. The representation of Black people and women, especially in senior and middle management echelons, must be improved by a deliberate programme of staff development, affirmative action and the encouragement of lateral entry.

32 The Ministry of Education is convinced that re-training of present education officials will be necessary once they have been placed in new national and provincial departments, and attaches a high priority to initiatives which will develop unified management teams at various levels within the new education bureaucracy as soon as possible.

33 The establishment of new education departments will not affect the position of educator personnel in broad terms. The Ministry of Education is highly sensitive to the need for as many well-qualified teachers as possible.

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Replacing old legislation with new

34 Education legislation in South Africa has been essentially of two kinds-that which has regulated education policy formulation at the central level, and that which has regulated the provision of education in schools or other institutions. The former did not apply to all the education systems operating in South Africa prior to the elections, while the latter reflected the fragmented nature of South Africa's education system.

35 Existing education legislation is therefore wholly inappropriate to the new national and provincial systems, and must be replaced with new or revised legislation as a matter of urgency.

36 The Ministry of Education will introduce legislation in 1995 for the efficient management of the new system and the declaration of new policy. Among other matters such legislation will deal with the establishment of coordinating bodies such as the Council of Education Ministers and the new Heads of Education Departments Committee, new statutory consultative bodies, curriculum policy, the establishment of a National Qualification Framework, and educator personnel.

Consultative bodies

37 The Ministry of Education is committed to openness and consultation in the management of education. However, it has inherited in existing laws a fragmented system of education consultation which reflects the racially- divided nature of the former South Africa. These must be replaced by a representative body or bodies which can provide effective channels for debate on and communication of public concerns on education and training policy and its implementation, which will provide advice to the Minister and be available for consultation by the Minister on matters within his or her competence. (The Ministry will support similar legislative steps at provincial level.) In preparation for setting up the new structures, the Ministry will seek the advice of a wide range of stakeholders in education and training, including especially the organised teaching profession, organised students, parent organisations, and the National Education and Training Forum.

Maintaining delivery of educational services during the transition

38 The provincial education departments are new structures on which exceptional demands are being placed, especially since the start of the new school year in January 1995. Political responsibility for the provision and maintenance of services, other than technikons and universities, now rests with the provincial governments, but the national Ministry of Education will give whatever support it can to the provincial ministries, including (on request, and by agreement) the provision of services on an agency basis, in order to ensure that educational services are as well maintained as possible during the period of transition. The rapid-response mechanism established by the Department (see paragraph 24) will keep channels of communication open between the relinquishing departments and the new provincial departments, and provide immediate technical assistance to the latter on request. These measures are in addition to the planning undertaken by the Heads of Education Departments Committee at the request of the Council of Education Ministers.

39 For a short period an increase in the number of persons employed in the education administration sector will be unavoidable, since new management systems must be put in place while existing services are maintained. The number of education administration personnel can be reduced as soon as the full rationalisation of provincial education departments has taken place.

40 The Ministry of Education is committed to fostering additional managerial capacity in the education system so that the quality of educational services can be enhanced, even if additional financial resources may not be available as rapidly as government would wish.

41 While the transition to single national and provincial departments of education is in process, it will be difficult to improve the quality of educational services quickly, especially as departments are coping simultaneously with reorganisation and a rapid increase in school enrolments. However, provincial Ministries of Education are planning priority projects under the

Reconstruction and Development Programme which will target those communities whose basic educational services are critically lacking or totally inadequate.

42 The understanding and co-operation of the people served by our schools and other educational institutions will be a major asset in assisting the education system to come successfully through the process of transition. The government accepts the obligation to keep the public, especially parents, fully informed of what is happening.

43 The establishment of active Provincial Education and Training Forums, and similar forums at local levels, provide a vital channel of communication and advice between provincial education departments and the people they serve. In the same vein, well-informed, representative school governing bodies are an essential asset in helping schools to manage the changes which provincialisation and new policies have brought. They are able to prepare both the school communities and the wider communities they serve to take advantage of the opportunities and challenges which the new, non-racial provincial education system offers.

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Part 4 - The Funding of The Education System

Chapter Ten

Transition In The Education Budget Process

Introduction

1 Like all other aspects of public administration, the process of budget preparation is in transition from the old pattern to the new.

2 This chapter provides information on these matters. It discusses the prospects for education in the 1995/96 budget, and indicates the direction of the Ministry of Education's thinking on relations between the national and provincial departments of education in the present and future budgetary dispensation.

The 1995/96 budget process

3 The budget for 1995/96 is truly transitional, in that its process has spanned both the old system

and the new provinces, and it has not incorporated all the budget arrangements laid down in the 1993 Constitution.

4 The budget cycle for 1995/96 began in February 1994. In April 1994 a general estimate of the minimum amount needed for education for 1995/96 was submitted by the inter-departmental function committee on education to the Department of State Expenditure. Cabinet decided on a guideline amount for education in August 1994. This provisional amount was divided among the provinces, the universities and technikons by the Ministry of Education. The final amount for education for 1995/96 was determined by Cabinet at the end of November 1994. The Minister of Education then made the final allocation to universities and technikons and the provinces.

5 The final allocations are not necessarily to the liking of the university and technikon authorities or to the provincial authorities, or (for that matter) to the national Ministry of Education, since the overall budget allocation for education falls considerably short of the country's educational needs. Moreover, the necessity to shift budgetary allocations on to an equitable basis of provision, has undoubtedly created severe pressure, especially in some provinces.

or by a top-down, non-participatory process. The provincial authorities have been consulted at all stages of this process. The issues and the possible solutions have been workshopped collectively before deliberation in the Council of Education Ministers. An intense effort has been made by all concerned to achieve a result which does justice to the complexity of funding educational transformation against the inheritance of extreme disparity of provision, and within a funding envelope which necessarily compels the education authorities at both national and provincial levels to make extremely painful choices.

7 As previously announced by the Minister of Finance, a figure of R5 billion to finance the RDP Fund was deducted from the total government expenditure guideline for 1995/96 before departmental guideline figures were allocated. The government's intentions in applying the RDP Fund mechanism are to leverage government spending to the new priorities of the RDP, to re-deploy civil servants in line with the new priorities, to launch Presidential Lead Programmes (such as the programmes for Primary School Nutrition, ABET and the Culture of Learning) and long-term development programmes, to help shift government spending from consumption to capital investment, and to change the budgeting process. Faced with budgetary shortfalls in carrying out their RDP obligations, departments are at liberty to apply for "bridging finance" from the RDP Fund, submit strategic management plans and business plans for consideration by the government's RDP Allocation Committee, and indicate how they propose to incorporate in their succeeding years' budgets the downstream recurrent costs of programmes assisted by the RDP Fund. Since virtually all educational investments involve substantial recurrent personnel and other operational costs, the implications of these measures for education programmes, are evidently serious.

8 The 1995/96 guideline figure for Education is roughly 1,5 per cent more in real terms than the 1994/95 budgetary appropriation for Education. This is substantially less than the annual rate of

increase of the learning population served by the education system. The fact that education is a major spending priority of the government emphasises the severity with which overall state spending targets are being applied, and the necessity for strategic analysis of education spending so that the system is able both to cope with its present obligations, including major reorganisation, and to meet its developmental targets.

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Constitutional provisions on the budget process

9 At current levels of allocation, without possible adjustment according to new policy priorities, around 85 per cent of the total public funding of education will be spent by the provincial Departments of Education. The 1993 Constitution specifies in broad terms the procedures which will apply in due course to the construction of provincial budgets.

10 Each province has a Provincial Revenue Fund, into which will be paid the proceeds from provincial taxes, levies and duties, and loans raised by the provincial government for capital projects, and also the funds allocated to the province from revenue collected nationally. The latter will be constructed from percentages (fixed by Parliament) of personal national income tax, national VAT revenue, any national fuel levy; the total proceeds of nationally collected transfer duties on property deals in the province concerned; and "any other conditional or unconditional allocations out of national revenue to a province". (section 155 (2)(e))

11 The Financial and Fiscal Commission (FFC) is charged with advising on the respective percentages which are to be applied to national revenue sources to make up the appropriation for each province, and the conditions to be applied to the conditional or unconditional allocations out of national revenue. The percentages and conditions are to be fixed "reasonably in respect of the different provinces after taking into account the national interest" and FFC recommendations. In arriving at the allocations to provinces, the government (advised by the FFC) is required to pay due regard to the national interest and national needs, and ensure that the provincial shares are equitable and reasonable, taking into account the province's developmental needs, capacity to spend, fiscal discipline, and its relative economic disadvantage compared with other provinces. (section 155(4))

12 Provincial governments will construct their own budgets in relation to their total revenue estimates and spending requirements. Education will almost certainly claim the largest share of provincial budgets, but the question is how adequately the various financial needs and priorities of the provincial departments of education will be assessed under this complex revenue-sharing and priority-setting arrangement.

13 Since the national Department of Education will not be responsible for allocating funds to the provincial departments once the constitutional provisions are fully implemented, it is clearly important for close consultation to take place between the national and provincial departments on

the detailed inter-locking relationships of many components of the education budget, including the financial implications of norms and standards set at the national level, and strategic planning decisions in relation to national human resource development goals.

14 It is likely that the new budgetary system will come fully into operation in the preparation of the 1997/98 estimates. However, the national and provincial Departments of Education will need to make adequate preparations in order to ensure that the new system is used to the best advantage of the nation's learners, and the specific interests of the respective national and provincial departments. The following steps are considered essential:

(1)The Heads of Education Departments Committee (HEDCOM) will need a professionally serviced Finance Sub-Committee in order to plan collectively. The budget process is inherently competitive, but the provinces and the national department have a mutual interest in ensuring that the claims of the education and training sector as a whole are well-argued.

(2)The new national Education Management Information System (EMIS) must be set up on the basis of new and functioning provincial EMIS as soon as possible, subject to agreement in HEDCOM, in order to provide relevant data for analysis and planning.

(3)Agreement must be reached between the HEDCOM Finance Sub-Committee, the Education Function Committee (see paragraph 16 below) and the FFC on the categories of information and indicators of need which the FFC will take into account in establishing its criteria.

(4)The national Department of Education should be ready and able to provide technical support, if required, to provincial Departments of Education in preparing their budget submissions.

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The 1996/97 budget process

15 The above measures will also need to be harnessed to the processes of the 1996/97 budget, preparations for which have already begun.

16 The national budget process within a "function" such as education will be undertaken through "function committees". The process starts with the development of policy (as in this document) through collaboration between national and provincial levels. It proceeds to the development of strategy, based on defined RDP and sectoral criteria, the capacity of the sector, an assessment of affordability, and the identification of performance indicators which can be used to measure progress in achieving targets.

17 Departments are then required to rebuild their budget votes from a zero base, translating the new strategy into appropriate programmes, sub-programmes and activities, with appropriate resources

and personnel. A process of re-prioritisation across functions is then to take place, involving the development of long-term expenditure guidelines which must meet the tests of affordability and sustainability, and the weighting of functional priorities by the government in the light of the RDP. At this point decisions will be taken on whether expenditure on particular functions should go up or down.

18 This ambitious procedure compels departments to undertake highly technical work of extreme importance within very tight deadlines. The Ministry of Education is aware of the danger that the process could become insulated from necessary consultation. Since the work requires a fundamental re-assessment of budget priorities and sectoral allocations, and will involve difficult choices, it needs to be undertaken by the national Department of Education in the closest collaboration with the provincial departments through HEDCOM and the CEM, and with the university and technikon sectors through their representative bodies and the AUT. The engagement in the process of representative bodies of other education and training sectors, including the schools, ECD, ABET, the colleges, and teacher education will be extremely important. The Ministry of Education will also require the services of specialist advisers and international expertise.

19 It is clear that the developmental initiatives and other programmes discussed in this document will be subjected to rigorous analysis in this process of strategic planning, and the performance targets will need to be spelled out over the five-year planning period and beyond, in relation to the state's capacity to fund, and the potential of other funding partnerships.

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Chapter Eleven

Budget Reform and Funding Requirements of The Education System

Introduction

The main function of the national and provincial education budgets is to maintain fully functional, cost-effective services and institutions in line with the policies of the Government of National Unity, the national Ministry of Education, and the provincial Ministries of Education, respectively. As the previous chapter made clear, the restructuring of the national budget is an urgent priority of the government. The restructuring of the education budget will therefore be undertaken according to the national process. Several linked pressures are operating simultaneously:

(1)The provincialisation process means that the procedure and decision structure of education

funding are being transformed.

(2)The education budget structure, which is still essentially a legacy of the past, must be reconceptualised for the new democratic education and training system.

(3)Constitutional requirements, reinforced by government policy, require that equity becomes a basic principle of budget strategy.

(4)The government's development programme in education and training makes substantial claims for a re-ordering of budget priorities and a significant number of new initiatives.

(5)The education budget is under severe pressure from government's overall fiscal policy.

(6)The national and provincial Departments of Education must continue to develop their strategies for effective access to the RDP Fund.

(7)All government departments and provincial administrations are required to re-orient their strategies, improve their efficiency, enhance their use of resources consistent with the RDP, and in particular re-conceptualise their budgets from a zero base, and their priorities in terms of multi-year performance targets.

2 This chapter marks the beginning of the analysis, which must be deepened, broadened and quantified before the end of 1995. The Department of Education is not yet in a position to give guidelines on re-allocation between programmes or sectors, although some are implied in the analysis of cost factors.

3 Instead, the analysis here puts the entire education and training budget in a developmental perspective, examines the nature of the demand factors operating upon it, the extreme importance of budget reform and its implications, the scope for off-budget funding of the sector, and the case for a temporary increase in public and other sources of support.

4 The analysis treats the education budget globally. In carrying the discussion forward, the provincial education departments are key players.

Background

5 Education is a key to the realisation of the personal aspirations of individuals and the socioeconomic programme of the government.

6 The people of South Africa rightfully entertain high expectations that their long-standing education and training needs will be recognised and acted upon by their government. They also have a highly realistic appreciation of the constraints operating upon the new Government of

National Unity, and equally the necessity to deliver tangible results in the short-term, and set up credible, participatory processes for phasing in the longer-term achievement of development targets.

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7 The Constitution requires the government to make adequate provision to satisfy the fundamental right of all persons to basic education and to equal access to educational institutions. A better educated and skilled workforce is a prerequisite for enhanced productivity in the domestic economy and competitiveness in international markets, and significant growth in entrepreneurship and small-business development. As the RDP White Paper puts it:

"Human resource development, education and training are key inputs into policies aimed at higher employment, the introduction of more advanced technologies, and reduced inequalities."

8 A better educated and skilled child, youth and adult population is the only sure guarantor of democratic freedoms, environmental protection, public health, and reduced crime and violence.

Demand factors

9 The current pressure for additional spending on education arises from four sources:

(1)Redress and rehabilitation. The shortfall of school classrooms at the end of 1994 is estimated in the range 50,000 to 65,000. These are merely to provide for the current enrolment. Rehabilitation costs (arising from underfunding for maintenance, violence, and vandalism) are being investigated through the School Index of Need exercise, and are expected to be high.

(2)Extended and new services. The government's human resource development programme involves major extensions of educational services and new services. Among the most important of these are: the phased introduction of free and compulsory general education (to Std 7), the Culture of Learning programme, launching the national Adult Basic Education and Training programme, launching the Early Childhood Development programme, expanding training capacity in technical colleges, community colleges and technikons, an adequate special education needs programme, enhanced pre-service and in-service teacher education to cater for the foregoing, enhancing the quality of university and technikon programmes, and a tertiary student loan/bursary facility.

(3)Demographic factors. The total population is currently growing at around 2,0 per cent p.a., though the rate of growth of the school-entry cohort may be somewhat less. Urbanisation and improved access to schools increase demand in excess of the normal growth rate in impact areas. More than a million new learners have been entering the system at Grade 1 annually, without a concerted effort to implement free and compulsory education. Nevertheless, the estimated backlog in provision amounted to 1,8 million children aged 6-18 who were not enrolled in 1994. Enrolment

figures for 1995 were not available at the time this document was prepared for publication.

(4)Rationalisation. Reorganising the previous 14 ethnically-based departments and services into nine provincial departments involves massive management and service changes. This creates costs for infrastructure and logistical support, plus an element of redundancy payments. Estimates of such costs are inherently unreliable but are becoming less so as the provincialisation process gathers pace.

The rationalisation process also involves disposing of accumulated debts on educational services rendered by the DET to some former TBVC and SGT administrations, and paying off interest on the current bank overdrafts incurred by the same administrations.

By 1996 it will be possible to undertake a thorough analysis of personnel requirements in the administration, with a view to reducing the number of posts to a sustainable level. This is a requirement of government policy, and a key strategy of the RDP.

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Current budget level

10 There were in 1994 nearly twelve million students, at 27,500 educational institutions, including 330,000 students at the 21 universities and 137,000 students at the 15 technikons. These learners were served by a staff complement of about 470,000 of whom 370,000 are educators.

11 The budget for this service for 1994/95 amounted to just under R30 billion, which represented 22.5 per cent of the government's budget and nearly 7 per cent of the estimated GDP.

12 It is well known that this level of public funding for education is at the high end by international standards. Under normal circumstances it would be expected to stabilise at lower proportions of national budget and GDP. However, the circumstances are not normal.

Essential budget reforms

13 The education budget must be radically reformed, in four dimensions.

(1)Equity. The South African education budget has always been inherently inequitable. This presents two problems. The first is to achieve equity, especially in respect of educator/pupil ratios on which staff provision scales are based. This is being done, starting in 1995. Moreover, all educational administrative and professional services will be deployed for general, not sectional, benefit from 1995, as a consequence of provincialisation.

The second problem is to deal with the skewed profile of teacher qualifications, which is itself the historic legacy of past inequity, and which perpetuates a skewed distribution of teacher costs. Most white teachers are better qualified, and therefore more expensive, than other teachers. This is more complicated to deal with but it must be tackled in close consultation with the organised teaching profession.

(2)Unit costs and productivity. Much expenditure on education is wastefully used and yields poor, if not abysmal returns. New educator/pupil and class size norms must ensure both effective learning and efficient use of teaching staff. Space utilisation (occupancy rates) must be improved in order to make optimum use of expensive learning facilities. Systematic preventive maintenance of buildings and equipment must become routine. Absenteeism of students and staff must be cut to negligible levels. Full working hours must be observed throughout the system. The causes of student dropout and excessive repetition of grades must be identified and vigorously tackled.

Less labour intensive teaching and learning strategies must be systematically and vigorously introduced, where their educational value can be demonstrated.

It is also of the utmost importance that the structure of teachers' remuneration is radically changed, in order to prevent an unsustainable spiral of salary costs. The number of salary grades must be compressed, the lowest salary levels must be raised, and the automatic link between salary level and qualification-acquisition must be broken. These are clearly matters for negotiation.

The second stage in the rationalisation process, beginning in 1996, will result in lower unit costs for administration, as the new national and provincial departments trim their establishments to sustainable levels.

(3)User charges. The system inherits a completely unsystematic pattern of user charges, from school through to university, which is linked to the former ethnic organisation of provision. This must be reviewed from top to bottom and re-designed in an equitable, sustainable, market-related and publicly acceptable way. The urgent priority has been to begin meeting the commitment to free and compulsory general education in a way that is seen by the people as both fair and necessary, even if this involves the encouragement of voluntary contributions by parents to school development funds to supplement the state provision.

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(4)New funding partnerships. The immense goodwill towards the RDP expressed by all organs of civil society, including organised business, community-based and non-governmental organisations, development agencies, and religious bodies, offers scope for new funding partnerships for human resource development, especially in such fields as: Adult Basic Education and Training, Early Childhood Development, Special Education Needs, school rehabilitation, community colleges, and the tertiary students' loan/bursary fund.

International development assistance agencies have already expressed their wish to participate in these areas. While very welcome and potentially strategic in some areas, this source cannot provide more than a very small proportion of national requirements.

These opportunities for establishing new funding partnerships are being vigorously explored with a view to giving them a proper institutional form. It is essential to be able to anticipate, if not plan, the level of extra- budgetary support which will enhance the provision of essential human resource development services

Implications of budget reform for funding levels

14 All these measures are of major significance for the level of budget support required by the national education and training services, as well as for enhancing the quality, coverage and effectiveness of these services. Quantification exercises will be undertaken and revised as the provincial database improves, especially in relation to ex-TBVC and SGT areas.

15 However, even in the absence of figures, some budgetary consequences of the above measures can be anticipated with confidence. These are presented for analytical purposes, not as a prediction of government decisions.

(1) Equity. The equitable educator/pupil and class size norms which will be phased in will be significantly above the historic norms in the former HOA, HOR and HOD systems, but below the former DET and homeland norms, so that a definite increase in the quality of service for the majority of learners will be made possible. However, the budgetary effect of reducing unit costs in the smaller ex-HOA, HOR and HOD systems will be more than offset by the effect of reducing class sizes (and therefore increasing the requirement for teachers) in most of the Black system.

Making administrative and professional services (subject advisers, inspectors, administrators) available across the board within provinces will be far more cost-effective. However, it will not reduce budgetary outlays in the short- term.

Achieving more equitable non-salary expenditure for essential items such as teaching materials, upkeep and maintenance, requires increased budgetary provision in the largely Black parts of the system.

(2) Unit costs and productivity. The equity measures described above will reduce unit costs overall and should significantly increase productivity in terms of educational outcomes. Efficiency measures, such as curbing absenteeism of students and teachers, reducing dropouts, and achieving higher professional standards of teacher conduct, will dramatically increase both qualitative outcomes and numerical outputs (more matriculants, better results). However, none of these measures is likely to reduce budgetary requirements, especially in the short term.

Five measures will achieve significant savings over time:

- Reducing the repetition of grades to educationally acceptable levels.
- Moving toward eliminating over-age students and shifting them into more appropriate, more cost-effective learning environments. (Both measures will lower student enrolments in schools.)
- Phasing in guided self-study and distance education programmes and strategies wherever appropriate, which will replace labour-intensive traditional teaching formats.
- The fourth is most significant. Restructuring teachers' remuneration will slow the built-in rate of increase of the salary bill. This measure, to be worked on jointly with the organised teaching profession, is in line with the government's policy for the restructuring of public service grading structures and career paths. Of necessity, such changes will take time to effect, and will require negotiation in the Education Labour Relations Council.
- Rationalising the education administration, which should result in a reduction in costs from as early as 1996.

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(3) User charges. The rationalisation of user charges will increase public confidence in the system but in itself may be of valuable but limited budgetary significance. This does not imply that they should be subject to uniform controls, but that the regulations under which they are applied should be transparent, equitable and adopted after full consultation.

Internationally, user charges offset a small proportion of the public cost of total educational provision, except in higher education. The government's commitment to phasing in free and compulsory general education ensures that parents of students in state schools will not be required to pay for the basic acceptable provision for which the state is responsible, but will be encouraged, through legitimate school governance structures, to contribute what they can to the school development funds.

Fees in the post-compulsory system will need to be modest at senior secondary level and substantial at higher levels. However, public subsidy in the form of income-related bursaries for high school students and a national student loan/bursary scheme for tertiary students (capitalised partly by the state) will be essential on equity grounds.

(4) New funding partnerships. The new sources of off-budget revenue which will become available will apply largely to new services, but could offer valuable marginal budgetary relief in some currently under-funded areas such as school rehabilitation and tertiary student funding.

16 The following conclusions can be drawn. The restructuring of the education budget will be highly beneficial in terms of public acceptability and educational performance, with major payoffs into the quality of the workforce and social well-being.

17 The benefit in terms of public finance and planning will be a rational and defensible educational cost structure, with tremendously improved efficiency, cost-effectiveness and productivity levels.

18 However, the net effect of these measures will not be to reduce budgetary outlays, even on present services, in the short term. There will be significant gains in terms of unit cost reduction in the medium to long term. Thus the rate of increase of the education budget per unit of input (student enrolment) will have substantially reduced, even as productivity rises. The cost of expanding the system will therefore be substantially less burdensome to the budget than would otherwise have been the case.

Findings and implications

19 The findings of this analysis are that:

(1) Essential budgetary reforms, linked to the enhancement of systems and institutional management

and the improvement of professional practice, will bring major equity, efficiency and productivity gains, amounting to a massive improvement in the effectiveness of the public investment in education services, but no net reduction in budgetary requirements, especially in the short term.

(2) Rationalisation of the education departments will require increased budgetary provision in the short term, but will bring significant infrastructure and personnel savings in the medium term (2+ years).

(3) Population growth, urbanisation, and mobility exert a strong upward demand on education services, which the government's commitment to phasing in free and compulsory general education will accelerate.

(4) The commitment to redress past inadequacies, including rehabilitation of school infrastructure, entails additional budgetary provision.

(5) The new services required in terms of the government's commitment to human resource development, will need additional budgetary provision, though strongly linked to the RDP Fund and off-budget support through new funding partnerships.

(6) The increased social and economic benefits of the above improvements will have a dramatic indirect and direct effect on the budget (since crime, prison, health and welfare caseloads should reduce) and the fiscus (in terms of enhanced economic growth arising from improved educational, motivational and skill levels, and a stabilised social environment).

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20 The most serious implication of the analysis is that while there is massive scope for restructuring the budget and improving efficiency and productivity in the system, which must be done, these measures will not reduce absolute budget requirements in the short term. The short and long-term demand factors are unavoidable, given demographic realities, constitutional obligations, and government's public commitments to phase in free and compulsory general education, launch a national adult basic education and training programme, and in general radically improve the quality of the nation's human resources.

21 A major capital works programme in education is essential, to meet the government's constitutional and RDP commitments. It is needed to cover the most serious requirements for school and college rehabilitation. Learning space of acceptable quality must be provided, based on a thorough survey and systematic mapping of requirements, so that significant progress can be made towards free and compulsory education, and new service requirements for human resource development. Costs must be carefully controlled through tight design specifications for new construction, and by carefully planning the multiple use of facilities. Elements of this programme have already drawn support by the RDP Fund in the form of the Presidential Lead Programme on the Culture of Learning. Other funding partnerships with local and international agencies will be sought. The specific requirements of the higher and further education sectors will be reported by the respective national commissions.

22 Most capital investments in the education sector have associated recurrent cost implications, particularly personnel costs. In principle, the education budget can absorb these only up to the limit set by minimum national norms and standards for the maintenance of a service of acceptable quality.

23 While ways must be found to reduce government consumption expenditure in the education sector, as in others, it is important to emphasise that educators are the vehicles for the public investment in human resource development. Just as investments in labour force training in the general economy must be lifted if workplace productivity and national competitiveness are to rise, the state as the monopoly employer of teachers and other educators must invest in their professional development if any improvement in education and training quality is to be achieved.

24 There is an unanswerable case for investing in research and development on the appropriateness of distance education strategies for different learning goals, including the use of study guides, videos, computers, newspapers, audio-cassettes, experimentation kits, broadcasting, charts and resource packs, coupled with student support services. There is a vast potential demand among educators, youth, women, workers, self-employed persons, and students in institutions. The unit cost and cost-benefit factors are highly favourable as demand grows and development costs are absorbed.

25 The Ministry of Education recognises that the most secure source of additional public funds for education will accrue from real economic growth and increased revenues. There are two other potential sources. One is internal savings and re-allocations, which the government's RDP strategy requires. This chapter examines these options seriously, and explains their limitations. The second is re-allocations from other functions to education. This is a matter for Cabinet's decision on developmental priorities.

26 The Ministry of Education, in the face of extreme budgetary pressure, requests recognition:

(1) of the significant social and economic payoffs accruing from a well-functioning education and training system which is responsive to social and economic demands

(2) for its goal of budget restructuring and associated reforms in education management and professional practice: to stabilise overall capital and recurrent cost factors in the system at lower levels in the shortest possible time, while substantially improving equity, productivity and quality, in order to achieve a sustainable long-term basis for growth and development in the education and training sector

(3) for the conclusion that the education budget from all sources needs to increase by a sufficient margin in real terms over the population growth rate for two to three years, in order to absorb the bulk of the essential capital cost programme for rehabilitation and development, the consequent operational expenses, and the costs arising from rationalisation, and that strategic, "cutting edge" parts of the programme for human resource development be planned and executed by the government in conjunction with local and international funding partners.

27 This preliminary analysis will be critiqued and deepened as the Department of Education, in consultation with the provincial departments and stakeholder organisations, makes preparations for the multi-year transformation plans which the RDP Office has requested.

Summary and conclusions

28 Education is a key element in personal aspirations, in satisfying fundamental human rights, and in national reconstruction and development. The anticipated demand for increased short-term and long-term funding for education involves four components: redress and rehabilitation, extended or new services, demographic factors, and rationalisation.

29 The current level of budget provision for education is high, but it is skewed inequitably, and the productivity of the system is unsatisfactory. The education budget must be restructured (1) to achieve equity, (2) to reduce unit costs and enhance performance, (3) to rationalise user charges, and (4) to develop new funding partnerships. These measures, while significant, will not generate sufficient budget capacity to cover additional funding needs in the short term.

30 The national education budget from all sources must be enhanced for the next few years, until demand stabilises, rationalisation costs are absorbed, and other measures generate significant structural savings or new revenue.

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Part 5 - Reconstruction and Development In The School System

Chapter Twelve

School Ownership, Governance and Finance

Introduction

1 In adopting a Constitution based on democracy, equal citizenship, and the protection of fundamental human rights and freedoms, South Africans have created a completely new basis for state policy towards the provision of schooling in the future. Unavoidably, because inequality is so deep-rooted in our educational history and dominates the present provision of schooling, a new policy for school provision must be a policy for increasing access and retention of Black students, achieving equity in public funding, eliminating illegal discrimination, creating democratic governance, rehabilitating schools and raising the quality of performance.

2 The equality guaranteed by the Constitution provides the moral and legal basis of schools policy, but other constitutional guarantees and prescriptions are no less important in laying down the new foundations of policy or influencing how it may be designed and executed.

3 This chapter is concerned with the pattern of ownership, governance and finance of schools. It will first examine what the Constitution has to say about these matters. It will then describe the main features of the present arrangements, and the most urgent issues of transformation and redress that must be tackled. The chapter concludes with the Ministry of Education's proposed line of action.

Constitutional provisions affecting school ownership, governance and finance

4 In the first place, provincial governments have constitutional responsibility for establishing, running, regulating and financing schools, but they will do so within the framework of national policy on matters such as the legal status of different types of school, and the norms and standards by which they should be governed and financed.

5 Secondly, the provisions on fundamental rights which guarantee equality, non-discrimination (except for purposes of redress), and equal access to educational institutions, set the standards which all levels of government are bound to observe in legislation and administrative action relating to school ownership, governance and finance.

6 Thirdly, the fundamental rights chapter explicitly protects cultural, language and religious rights, both in terms of personal observance, and as a basis for school ownership. The latter is the only constitutional provision directly relating to school ownership. It gives every person the right

"to establish, where practicable, educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the ground of race" (section 32(c))

This right applies also to legal persons (for example, trusts, and governing bodies established by law), and it affords protection to the owners of schools of this kind which may already be in operation, so long as they do not discriminate racially.

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7 Fourthly, the Constitution includes some 'special provisions' about the governance of educational institutions. These provisions apply specifically to the rights, powers and functions which the governing bodies or similar structures of departmental, community-managed or State-aided schools possess under laws existing immediately before the Constitution came into effect. (Identical provisions apply also to universities and technikons.)

8 The national and provincial governments are required to reach agreement "by bona fide negotiations" with the respective governing bodies, and give reasonable notice, before altering the rights, powers and functions of such bodies. If agreement is not reached by negotiation, a government may nevertheless proceed to make the alterations it wishes. If it does so, however, the Constitution gives "interested persons or bodies" a specific entitlement to mount a legal challenge to the validity of such alterations in terms of the Constitution.

9 Fifthly, another "special provision" requires the "responsible government", national or provincial, to provide funds to departmental, community-managed and state-aided schools on an equitable basis, in order to ensure an acceptable quality of education. (section 247)

10 The complexity of the provisions relating to school ownership, governance and finance indicates the sensitivity of the interests which the Constitution has accommodated. Both the governments and the governing bodies of the schools concerned, are required to act with a high degree of responsibility in fulfilling their obligations in these matters.

11 All governments are bound to uphold all the constitutional guarantees, and (within their competence) to require schools to do the same. This includes upholding the rights to personal equality, equal access to schools, protection of cultural, linguistic and religious rights, prohibition of all unfair discrimination, and protection of the right of redress, which may include differential treatment if this is required in the interest of the child and to uphold equity.

12 School governing bodies which have discriminated unfairly on whatever grounds in the past are required in terms of the Constitution to change their practices. If a governing body is challenged in court on the basis of prima facie evidence of discrimination, the onus of proof of non-discrimination rests with the governing body. (section 8)

The present pattern of school ownership, governance and finance

13 On the eve of the creation of unitary provincial education departments, the pattern of school ownership is still defined in most provinces by the laws and practices of the previous ethnically-based departments which are about to disappear.

14 It is generally assumed that schools are organised in three categories: state, state-aided and private. However, the situation is not that simple. Some of the previous departments had more than three categories of schools. Different departments used different terms to describe the same thing ("government", "state" and "public" schools). The same term ("state-aided") used in different departments covered a variety of school types, including schools owned or managed by parent bodies, by traditional authorities, and by farmers. "State aided special schools" are another category with different organisational and funding principles. Some private schools received state subsidies of up to 50 per cent of the per capita running cost of schools in the former departments where they were registered, but were not classified as "state-aided".

15 There are substantial differences among the former ethnic departments in the proportions of children enrolled in state and state-aided schools. This means that the basis of state funding of schooling has differed from department to department, and so has the magnitude of financial contributions to schooling made by parents or the community. For example, using figures for 1992 or 1993:

- In the former Self-Governing Territories, community schools (a class of state-aided school) accounted for 87 per cent of all schools and all enrolments.
- In the Department of Education and Training, state-aided schools (mainly farm schools)

accounted for 70 per cent of all schools but 19 per cent of all enrolments.

- In the former House of Delegates, state schools accounted for over 90 per cent of both enrolments and schools.
- In the former House of Representatives, state-aided (mainly church) schools accounted for 44 per cent of all schools.
- In the former House of Assembly, state-aided (Model C) schools accounted for 94 per cent of both schools and enrolments.
- Private schools accounted for less than four per cent of schools and enrolments in the former House of Assembly, and no more than one to two per cent elsewhere.

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The need for a managed process of change

16 The present pattern of organisation, governance and funding of schools is a patchwork from the past. It contravenes the rights to equality and non-discrimination which the Constitution guarantees. As a basis for a national system in a democratic South Africa it is dysfunctional and cannot continue unchanged.

17 The Ministry of Education is keenly aware of the need for a clear strategy to defuse the tensions surrounding the issues of school governance and funding. The Ministry is required to send a clear signal to the people of South Africa that the school system is being democratised. The parents, teachers, students, managers and other stakeholders who are seeking an equitable and democratic solution which will best serve the educational needs of all communities, need a lead from the national Ministry of Education which will encourage them in their efforts.

18 Many schools already reflect good, accountable management, with high levels of community participation, despite the inequalities and distortions inherent in the apartheid-based organisational and funding structures. The task facing educational leadership is to recognise the best experience from all parts of the system and, where necessary, enable communities to reshape their structures of governance so that they reflect constitutional principles including democracy, non-racialism and non-sexism.

19 It is understandable that many parents, school principals, teachers and students are uncertain about what the changes in the system of education will mean for their schools and themselves. Those who are accustomed to stable schools, which have close links with the social, cultural and religious life of their communities, and honoured traditions, may feel that what is precious to them is threatened by unknown changes they may be unable to influence or control. Communities which have been favoured by the past political dispensation, and who know that a democratically elected government, representing an overwhelmingly poor electorate, cannot be expected to fund their privileges, may be particularly apprehensive about what is in store.

20 Equally, parents, teachers and students who have had to cope with appalling conditions, the result of decades of under-resourcing, instability, wasted human potential and low morale, have high expectations from a government they believe rightly is committed to redress.

21 In many of our schools, principals and teachers have been grappling with the challenges of educating students from different historical, cultural and language backgrounds. The students and parents concerned have willingly borne the brunt of these changes, which will now accelerate in schools throughout the country. The government believes, and this was confirmed in the public response to the draft version of this document, that the overwhelming majority of South African parents in all communities accept that schools should not and must not be racially exclusive, that they must be democratically governed, and that state funding of schools must be equitable.

22 In all spheres of economic, social, religious and political life, South Africans are learning to live, work and plan together. Events in the sphere of local government are potentially important for education. The success of negotiating forums in achieving agreed local government boundaries and preparing for the election of democratic, non-racial councils in cities, towns and rural areas, should assist in creating a new social context for the local organisation and governance of schools.

23 The Ministry of Education is not suggesting that local governments should be assigned powers to run educational services. That is a matter for the education departments and provincial legislatures to consider when new local government councils have been elected and have stabilised. The point is that the moral climate of non-racial local government negotiations is likely to influence, hopefully for the better, a similar process in local (or district) school governance. Local Education and Training Forums can make an important contribution to the process of transition, until decisions on permanent governance structures have been taken by provincial governments and enacted by their legislatures.

24 Change must now be managed by the new education authorities in a systematic, inclusive and fully participatory way. Education departments must lead but not dictate. If radical change is imposed on schools by top-down direction in the absence of participation by those whose interests and identities are at stake, the result will be predictably disastrous. The Ministry of Education accepts that change will not be an overnight process but continuous over a period of time. In many parts of the country, local organisational capacity among stakeholder groups has been poorly developed and in some cases actively discouraged by previous authorities. It will take time for local leadership to emerge and engage with the new Departments of Education. The departments should be prepared to act flexibly while local capacity is being built, and to aid and facilitate that process.

25 The issue is not whether the organisation, governance and funding of the education system will change. Change is inevitable and cannot be delayed. The issue is whether a new and just dispensation in the schools will be brought about in the new South African way, by negotiating peacefully, according to the spirit and letter of the Constitution, in the service of both national unity

and cultural diversity.

26 For its part, the Ministry of Education is convinced that peace in the schools is a prerequisite for democratic transformation in education. All the educational goals and programmes of the government depend upon achieving and maintaining a disciplined and purposeful school environment, dedicated to the improvement of quality throughout the system. The Ministry of Education is therefore committed to an inclusive process of negotiated change toward the full democratisation of school organisation and governance, and the following proposals are made in that spirit.

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Establishing a new pattern of school ownership, governance and funding

27 A new national policy framework for school organisation is essential to provide a firm basis for action by the provincial Ministries of Education in the full exercise of their legislative competence. The framework must clarify the legal status of different categories of schools, and establish national norms and standards for school governance and finance.

28 The framework must be developed on the basis of principles which are in full accord with the Constitution, consistent with the best South African experience, easily understood, and likely to raise the quality and effectiveness of schooling where it is most needed.

29 The Ministry of Education proposes the following principles as the basis of the new policy framework for school ownership, governance and finance:

(1) Legal categories of schools

(a) The categories of schools recognised in law should be as few as possible.

(b) The categories should be based on clear criteria such as ownership, funding, and relationship to departments of education.

(c) The categories should be uniform across the country.

(d) The categories should assist the elimination of inequitable and outmoded divisions between the inherited categories of schools.

(e) The categories should include, but need not be confined to: state, state- aided, and independent schools.

(f)The circumstances of special schools should be given particular attention.

(g)The categories should accommodate the constitutional provisions affecting school ownership.

(h)There should be clearly stated conditions under which a school or group of schools might be permitted to change their category.

(2) Governance

(a)The term "governing body" should be used as the general term to describe school governance structures in all categories of schools.

(b)The principle of an articulated provincial system of schools needs to be upheld. Therefore, the relationships of school governing bodies to education governance structures within provincial education systems, need to be defined.

(c)School governing bodies should be representative of the main stakeholders in the school. Parents have the most at stake in the education of their children, and this should be reflected in the composition of governing bodies, where this is practicably possible. The head or principal of a school should be a member of the governing body *ex officio*.

(d)In primary schools, the main stakeholders for purposes of governance comprise the parents and teachers.

(e)In secondary schools, the main stakeholders for purposes of governance comprise parents, teachers, and students. It is recognised that these stakeholders can play different roles with respect to different elements of school governance.

(f)The composition of governing bodies should be sensitive to racial and gender representation, and (in the case of special schools especially) to citizens who can best represent special education needs.

(g)State involvement in school governance should be at the minimum required for legal accountability, and should in any case be based on participative management.

(h)The decision-making powers of governing bodies should reflect their capacity to render effective service.

(i)A capacity-building programme should go hand-in-hand with the assignment of powers to governing bodies. This should be supplemented by management programmes for principals and inspectors, to ensure a smooth transition to the new school governance system.

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(3) Finance

(a)The basis of financial allocations to different categories of state and state-aided schools must be equitable and transparent, aimed at eliminating historical disparities based on race and region and ensuring an acceptable quality of education.

(b)In particular, an equitable staff provision scale or scales, must be phased in at state and state-aided schools as rapidly as possible, in full consultation with the representative organisations of the teaching profession.

(c)The phasing in of an equitable staff provision scale or scales should be based on acceptable educational planning principles, with attention to the requirements of the curriculum, the quality and effectiveness of educational delivery, financial capacity, the physical size of classrooms, the number of students per class, the number of children with special educational needs, and personnel implications.

(d)The question of the eligibility of independent schools for state subsidies must be determined using clear and equitable criteria based on the public interest, and the observance of constitutional guarantees.

(e)Appropriate periods of notice must be built in to any significant changes in funding patterns.

30 These principles involve extremely complex legal, financial, administrative, educational and political issues. With the advice and support of the Council of Education Ministers, and in consultation with the National Education and Training Forum and national organisations of teachers, students, parents and school governing bodies, the Minister of Education will without delay appoint a Committee to Review School Organisation, Governance and Funding.

31 The Review Committee will be asked to analyse the current situation of school organisation, governance and funding in terms of existing legislation, the 1993 Constitution, to undertake suitable research, including research on relevant international conventions and comparative experience, to receive oral and written submissions in all provinces, and on the basis of its findings, and the Ministry of Education's Statement of Principles above, to recommend to the Minister:

a proposed national framework of school organisation and ownership, and norms and standards on school governance and funding which, in the view of the committee, are likely to command the widest possible public support, accord with the requirements of the Constitution, improve the quality and effectiveness of schools, and be financially sustainable from public funds.

The Review Committee will be asked specifically to advise on the process by which these matters should be negotiated, in terms of section 247 of the Constitution.

32 The Minister will appoint to the committee specialists nominated by stakeholders on the basis of their knowledge of the school system, expertise, experience and wise judgment. Members will serve in their personal capacities. The overall composition of the committee will reflect the principle of representivity, and be such as to command the confidence of the widest possible cross-section of the public. The reporting date of the committee will balance the need for early decisions with the undoubted complexity of the issues and the need for widely acceptable, educationally progressive and constitutionally sound solutions.

33 The Ministry of Education is aware that a transformation of this magnitude, which evokes expectations, uncertainties and fears, can be facilitated by techniques and processes of change management. The Department of Education will consult with the Heads of Education Departments Committee to establish how best to assist education managers at all levels to respond professionally and with creativity to the new environment. Their leadership is an essential factor in success.

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Chapter Thirteen

Meeting The Commitment To Free and Compulsory General Education

Introduction

1 Education provision during a basic phase is now recognised as a fundamental human right in many countries, including both industrialised and developing nations. In these countries, state provision of education during the basic phase is usually justified on equity grounds, that is, the provision of free and compulsory education during the basic phase is meant to ensure that all citizens have access to education of equal quality.

2 The government is committed to the goal of providing access to general education for all children from a reception year up to Grade 9 (Standard 7), funded by the state at an acceptable level of quality, and to achieve this goal in the shortest possible time. This goal is often referred to as the provision of "ten years' free and compulsory general education for all". Achieving this goal is central to the national development strategy but it will require hard work, cooperation and compromises from all the education role players including government, educators, parents and

students.

3 The implementation of the commitment to the provision of general education for all must be based on two sets of principles. One is a set of broad policy principles, while the other is a set of compatible but more detailed operational principles which underpin the implementation strategy.

Broad policy principles

4 Access. Extending access into the education system has two main components. First, capacity must be expanded. The number of schools and classrooms has to be increased so that there are sufficient places for all children. There is a need also to ensure that these schools are adequately staffed, that they are located where they are needed, and that they are in fact accessible to learners in their areas. It is a waste of resources to have underused buildings in one place and overcrowded classrooms in another. Most importantly, it is necessary to ensure that current capacity is fully utilised.

5 Second, there is a need to understand and, where possible, address the barriers that prevent some children from going to school. Distance and lack of transport, hunger, disability, looking after younger siblings, herding, household tasks, lack of parental guidance, homelessness, having to find work, and inability to pay for uniforms, are all factors which may prevent children enrolling for school or remaining in school for the duration of the programme. Only some of these matters fall within the competence of the education departments to alleviate, but most will be affected for the better as the Reconstruction and Development Programme takes hold at grassroots level.

6 Equity. The constitutional right of equal access to educational institutions was discussed at length in chapter 7. In addition to ensuring that this right is understood, respected and protected, within the framework of rights relating to education, the government has an obligation to facilitate equitable access to schooling and its benefits. Despite impressive increases in enrolments during the past two decades, significant numbers of children of school-going age have remained out of school. The vast majority of them come from one or more of the traditionally disadvantaged groups in society: they live in a rural area, or in a high-density urban settlement, they are poor, and they are most likely to be Coloured or African.

7 To achieve equitable access, expanded access is itself a necessary first step. The fact that many children have remained out of school altogether casts a shadow over the efforts of the education departments to improve the quality of education of those who are enrolled. It is equally unsatisfactory that many students leave school after one or two years. Making sure that there are enough schools and classrooms for all children, competent teachers to teach them, and a supporting environment to encourage students and their parents to value regular school attendance for the duration of the cycle, is therefore the foundation for constructing an equitable education system.

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8 To reduce the inequalities of the past requires affirmative action. It is not sufficient simply to announce that discrimination by race or gender is now illegal. The discrimination that was introduced in the past was not just a matter of the allocation of resources and of everyday practices.

9 It is essential, therefore, to redress imbalances generated through historical inequalities in provision, and at the school level this is now being done. Ways have been found to encourage children to attend schools that formerly excluded them. Parents and their children have been encouraged to seek out education opportunities that were previously denied them, and schools have opened their doors and where necessary expanded their educational programmes to accommodate them. Imaginative solutions, even if temporary, have been found to accommodate the large numbers of students who are claiming their right to attend schools in both rural and urban areas. In these respects, despite the inevitable difficulties, a giant stride forward toward access, equity, mutual cooperation and the negotiation of differences has been taken in 1995 by school communities all over the country, and by the provincial authorities. There is still a long way to go, but an encouraging start has been made.

10 Affirmative action means providing special encouragement and support for those who experienced discrimination in the past. Clearly, not everyone needs or should receive that special assistance. Thus, to achieve equity, it may be necessary to pursue policies that treat different groups of people in somewhat different ways. For example, if girls have been systematically discouraged from selecting subject combinations that emphasise mathematics and science, then achieving equitable education requires that new ways be found to encourage more girls to select those subjects.

11 One way of measuring the success of the system in achieving the removal of injustices and obstacles in access to school will be measured by analysing which children are being admitted and are continuing to attend school, and under what conditions. For example, the implementation of pre-school programmes needs to be targeted at those communities where this facility has never been provided. We should not be satisfied by enrolment and promotion rates in basic general education that vary significantly from one district to another. Nor should we be satisfied by a system in which some children have sufficient textbooks in every subject and well equipped libraries and laboratories, while other children sit on the floor in large classes, in tents or under trees, and lack books, furniture, libraries and laboratories.

12 Not only should measures of access be monitored, but it is vital to measure and monitor results or outcomes, in order to ensure that the current disparities in learners' opportunities to achieve an acceptable level of learning are regularly monitored so that appropriate remedies can be planned and implemented. For example, do girls stop their schooling sooner than boys, or vice versa? Are pass rates systematically and consistently higher in some provinces and circuits or districts than in others? Achieving equity in results is complex and difficult but the education system will fail the children if we aim at anything less.

13 Quality. The achievement of general education for all has both quantitative and qualitative dimensions. Any suitable definition of basic general education needs to embrace not merely the proportion of eligible children attending school, but also the nature and quality of schooling offered. The implementation of the compulsory phase implies not merely securing formal attendance at school but also ensuring that the material and human resources made available to schools from state funds are sufficient to allow an acceptable quality of learning to proceed.

14 Perhaps the most important challenge in improving the quality of our education system is to ensure that our teachers are well prepared for the major responsibilities they carry. It is essential that teachers are helped to develop the expertise and skills that will enable them to stimulate learning. It is necessary to ensure that children have sufficient textbooks and instructional materials. The physical facilities of schools must provide a decent environment for learning. Many of our schools are in a state of disrepair. Many are in ruins. Furthermore, many lack basic furniture, storage space, electricity, a safe water supply, toilets, a school library, laboratories, workshops, and recreational facilities.

15 Education financing policies must direct the distribution of the limited public resources so that the goals of universal provision and equalisation are attained, but in such a way that educational inputs which are known to be strategically necessary for improved quality are both safeguarded and enhanced. Access without quality improvement in basic general education is a recipe for disappointment, and perpetuates an inevitable loss of productivity higher up the education system, in training and in the work- place. The early years of learning must be a special priority for targeted expenditure, so that the best possible foundation can be laid consistent with our means.

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16 Efficiency and sustainability. Educational efficiency is linked to quality of provision. Achieving or improving efficiency in the education system will require us to reduce repetition and drop-out rates and increase the quantity and quality of output from the system.

17 However, an efficient, outcomes-oriented system of state-provided general education for all can take place only within a context of financial sustainability. Currently, nearly a quarter of the government's expenditure is allocated to education, which has to compete for resources with other sectors such as health, social welfare and housing, where the needs are also substantial. Within the education sector, the requirements of the general education phase must respond to justifiable pressures for greater access, quality, equity and sustainability in all other phases of the system.

18 The large gaps that need to be closed between schools and communities with the highest and lowest spending per pupil, as well as the resourcing needed for the education of teachers and the construction of schools, will consume a large proportion of the education budget each year. Providing ten years of fee-free education for all in state schools will mean increasing expenditure year on year as more children are brought into the system and stay longer. Moreover, if economic

growth is sluggish, the budgetary resources available to education will be seriously constrained. Thus the restructuring, expansion and qualitative improvement of the school system must be handled in a manner which ensures its financial sustainability.

19 Democratic governance. The sustainability of a policy of general education for all is not just a financial concept. It is a profoundly important attribute of the value the community, particularly the parent community, places upon the educational services for its young people. Without a democratic governance structure representing the principal stakeholders of the school, there is no prospect that the provision of an acceptable level of general education for children from state resources can be properly managed, sustained, and enhanced. The principle of ownership of the school by the community it serves is therefore a foundation for the successful implementation of the policy and the provision of quality basic general education for all.

Operational principles

20 A number of operational principles will facilitate the implementation strategy for achieving access to general education for all, or "ten years free and compulsory education". These fall into three categories, dealing with the separate components of "ten years", "compulsory" and "free".

Ten years: the reception year within the General Education cycle

21 The Ministry of Education is in agreement that the General Education level within the school system under the National Qualification Framework should comprise a reception year and nine school years from Grades 1-9 (Sub A to Standard 7). Since at present the reception or pre-school year is not included in the basic education phase, the effect will be to add a year at the bottom end of the demographic pyramid. The implementation of the reception year will take place over a period of years when there is also significant growth in participation rates from Grade 1 upwards. The consequences for the capacity of the system are therefore considerable, and the following operational principles are necessary to enable the national and provincial departments to approach the goal in an affordable and sustainable manner.

22 Reception year state-supported but not compulsory in the first phase. In order to permit the system to expand to accommodate the increased demand, attendance in the reception or pre-school year should not be mandatory except in areas where capacity exists.

23 A variety of institutional forms of reception year provision to be supported. Considerable capacity already exists in non-state pre-schools, although nowhere near enough for all children. The tradition of community provision of pre-schooling is an appropriate and valuable asset which should in no way be undermined but on the contrary should be encouraged and supported. The role of non-governmental organisations, including religious and other community-based structures, has been strategically important. Private provision has a long history in more affluent communities.

24 In the first phase, therefore, the implementation of the reception year must ensure that all the available capacity is fully employed and enhanced, subject to a proper regulatory framework to ensure children's safety and well-being and safeguard against fraud and exploitation. State per capita grants should be available to community and private institutions which meet reasonable and acceptable standards, and the capacity in state and state-aided schools must be fully utilised wherever it exists.

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25 Priority for under-resourced areas. The phasing-in of the state-supported reception year must be done in a manner which accords priority to those areas of greatest need and least financial capacity within communities.

26 Teacher education for the reception year. It is essential to ensure that the reception year does not simply constitute a lowering of the age of admission to school, with inappropriate or harmful teaching methods and curriculum. The phasing-in of state support must therefore follow or run parallel with the preparation or up-grading of adequate numbers of teachers with the specific skills required for reception or pre-school education. This would be facilitated by approving an accredited set of appropriate qualifications for teachers in the early childhood and foundation learning phase, and enabling accredited training agencies to enrol increasing numbers of candidates for certificated courses. Teachers of early learners need the incentive of a recognised and respected career path.

27 Support services for the reception year. It is equally essential to ensure that the phasing in of the reception year is accompanied by an appropriate curriculum, the availability of inexpensive and appropriate learning and teaching materials, and appropriately trained, mobile professional resource staff, and resource centres for the use of teachers.

28 Rigorous enforcement of the minimum admission age. Primary schools and reception or pre-school classes must not become creches for children who require a different kind of nurturing environment. The minimum age of admission to the reception year must therefore be rigorously applied.

Compulsory education

29 The basis for the state's commitment to compulsory general education is to be found in the fundamental right of all persons to basic education (see chapter 7, paragraph 1 1), and the Ministry of Education's policy for compulsory education therefore provides one of the necessary elements of the framework within which the constitutional rights of the child can be assured. Compulsory education will also provide a legal instrument to prevent the exploitation of child labour at the expense of the child's education. The Constitution obliges the state, parents and others who might have such authority to uphold the rights of the child to education.

30 Compulsory education comprises two elements: compulsory provision, and compulsory attendance. The following operational principles should underlie the implementation strategy.

31 Compulsory provision. The state is required to ensure that educational opportunities of acceptable quality are available to every child for the General Education period. This means that no child can be denied access to schooling for the compulsory period. It does not mean, as has been discussed in chapter 7, paragraphs 18-52, in relation to the constitutional right of access and other fundamental rights concerning education, that every child has the right of access to any school whatsoever. The operational principle is that the right of access applies to publicly funded schools nearest the child's home, subject to the provisions of the Constitution referred to above. A second operational principle is that if a child for good and sufficient reason cannot be accommodated at the nearest school or a school in the neighbourhood, the education authorities are obliged to assist the parents and the child concerned to find a suitable alternative.

32 Compulsory attendance. A law providing for compulsory attendance places a legal obligation on the parents of children covered by the compulsory education period to ensure that children attend school for that period. All systems of compulsory attendance in other countries make appropriate provisions for exemption. A child's parents cannot be required to ensure the child's attendance if no educational facilities are available to them. There are other circumstances where the interests of the child might be compromised by compulsory attendance at a school, and here the guiding principle would ensure a due process of determination of the child's best interests, and due recognition of the rights both of the parents and of the child.

33 Compulsory school attendance age range. The enforcement of compulsory attendance by law can be phased in only when it is clear that the capacity for each successive age group exists, and when the ground has been prepared in the affected communities so that the full implications of compulsory attendance are understood. Compulsory birth registration is an essential precondition for regulating admissions to school and, over time, eliminating under-age and over-age enrolment.

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34 In view of the capacity problem, the Ministry of Education, through the Council of Education Ministers, will review possible legal enforcement measures in respect of the designated age-group, taking into account the availability of school facilities, the appropriate preparation of parents for the implementation of compulsory attendance, and the availability of an appropriate service to deal with non-attendance.

35 In time, the social acceptance of compulsory birth registration and compulsory school attendance should be at a sufficiently high level, and the participation rate in school sufficiently high, that, with appropriate notice being given, the policy can be legally enforced by the provincial Ministries of Education for the designated age group, on the basis of designated magisterial

districts, until by stages the whole country is covered.

36 In due course, the Ministry of Education will take appropriate advice from public bodies and its statutory consultative structure, consult the Council of Education Ministers and determine where the compulsory attendance age range should be established, for instance at 5-14 years or 6-15 years. For the time being, the operational principles should be that the minimum age of enrolment in the reception year be rigorously enforced, that so far as practicably possible, alternative educational provision, such as in Community Learning Centres, be made for over-age young people who are following the General Education curriculum, and that a Grade 9 or Standard 7 level of attainment be regarded as the appropriate cut-off for the compulsory period.

Free education

37 It is well understood that all public education is a service which costs, that the costs must be paid for from public funds via the tax-payers and other revenues, or by the parents, or by the community. In this sense there is no free education.

38 The Ministry of Education considers the provision of General Education of acceptable quality in the compulsory phase as a public responsibility, to be funded by the state at an affordable and sustainable level. The following operational principles provide guidance for an implementation strategy.

39 Provision by the state of teachers at an agreed ratio. The major resource in the schooling process is the provision of a qualified teacher. In terms of this principle, the state should undertake to fund teaching posts at affordable and educationally viable ratios at all state and state-aided schools.

40 Provision at state schools of basic physical plant and equipment. The principle here is that the state has an obligation to provide the basic physical facilities and equipment to all state schools. The parameters of this provision will be negotiated with stakeholders and in the Council of Education Ministers in the light of the resource constraints. It should include access to classrooms of an agreed standard at an agreed ratio, the provision of basic services and infrastructure such as water, toilets, electricity, and an administration block, as well as educationally necessary facilities such as a library, laboratories and workshops where appropriate, and recreational facilities.

41 Prioritisation of physical provision. The provision of these facilities will need to be made on a prioritised basis according to an Index of Need for each school, which the national and provincial Departments of Education are in the process of preparing, taking into account the possibilities of optimising resource utilisation through the sharing of facilities between schools, where this is physically feasible.

42 Provision of basic learning materials. The state has an obligation in terms of this policy to ensure that students have access to basic learning materials such as textbooks and stationery, and

teachers have access to basic teaching materials such as syllabuses, teachers' guides, and an appropriate range and level of other resources including reference materials. Where schools or parents choose to make available a higher level of provision than is deemed affordable by the state, the principle should apply that they may provide the additional resources out of school development funds.

43 School development funds. School development fund contributions are voluntary contributions made by parents and others, and administered by school governing bodies, to assist with improving the facilities and educational resources and other development activities of the school. Such contributions are not required by law, unlike the school fees which the governing bodies of state-aided or state-subsidised schools are empowered to charge under current legislation, in order to supplement the state subsidy they receive. Since the Minister of Education's Review Committee on School Organisation, Governance and Funding will examine such matters in order to propose an equitable and educationally acceptable school governance and finance policy for the future, it is unnecessary to comment further on the distinction between legally- required school fees and voluntary school development funds.

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44 It need only be said that the Ministry of Education strongly supports the principle of voluntary school development funds, managed and accounted for by the school governing bodies, and controlled and audited by the education authorities in order to ensure that fraud is not committed and funds are used for purposes of educational development. The principle of voluntary subscription by parents, and responsible, collective decision-making by the school community as to the way in which school improvements should be made, is and will remain a very important part of the national strategy to achieve basic general education for all.

Implementation of ten years general education for all

45 The implementation of the "ten years free and compulsory education" policy began on 1 January 1995 with the enrolment of all six year olds in Grade 1, as announced by the Minister of Education. This is only the first step. The policy will be phased in over a number of years.

46 It is essential for the Council of Education Ministers to consider and approve a clear implementation programme based on the operational principles described above, with targets, target dates, and a monitoring and reporting mechanism. Individual provincial authorities face very different educational needs, and have different financial and infrastructural capacities, though these should move towards equitable provision in terms of the requirements of the Constitution. In the mean time, provincial Ministries of Education may wish to set targets and target dates appropriate to their circumstances, but within limits or parameters set by the Minister of Education after due investigation and consultation.

47 When the situation in schools has largely stabilised, the data on the 1995 school year have been assessed, and provisional targets and target dates have been established, it will be appropriate to mount a national schools campaign. The campaign, which could be linked appropriately to the RDP Presidential Lead Programme on the Culture of Learning, could encourage parents and communities to assess their obligations to their children's schools, ensure that school governing bodies are functioning in the best interests of the children's education, and increase their moral, financial and practical contributions to their schools' development.

School costs at post-compulsory level

48 It is necessary to allay fears that the introduction and implementation of "free and compulsory general education" implies a complete absence of state subsidisation of students in Grades 10-12 (Standards 8-10). This is emphatically not the case. State subsidisation of senior secondary education is crucial to ensure that a significant proportion of students from all South African families, particularly those from socioeconomically disadvantaged backgrounds, are able to proceed to and beyond the matriculation level.

49 The level of state subsidisation of senior secondary education will depend most obviously on the level of per capita expenditure that is allocated to the general education sector in the compulsory phase and the priority the government attaches to sustaining good quality schooling in the post-compulsory phase. The levels of state subsidy will also be related to the extent to which students and their families can be expected to contribute to the cost of provision, quite apart from whatever voluntary contributions they might make.

50 It would be appropriate for the Department of Education, in conjunction with its provincial counterparts, to give serious consideration to the creation of an equitable funding system for senior secondary education which reflects the strategic importance of this level of education, the weight to be attached to subsidy from public resources, the proportion of funding to be expected from fee payments according to a family income-related scale, the necessity and scope of bursary provision, and the extent of additional funding which schools might be expected to raise from other sources according to their circumstances.

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Part 6 - Conclusion

1 This document represents the first steps along the long road of restructuring education in South Africa. The educational problems of our country run deep and there are no easy or quick-fix solutions. Even when educational changes enjoy wide support they necessarily take several years to work their way through the system because educational cycles tend to be very long.

2 The policy framework set out in this document does not constitute the Ministry of Education's final blueprint for educational transformation. The policy proposals address the areas which require urgent direction as the new government seeks to transform the fragmented and ethnically-based system into a non-racial system of education and training.

3 The Ministry of Education will be developing further policy in the future, and is committed to do so in consultation with all stakeholders and roleplayers.

4 The policy proposals set out in this draft document are directed at initiating fundamental change in the character and content of our education and training system. They are designed to ensure democratisation, a clear framework for redress, equity, and the transformation of our educational bureaucracy. It is a challenge which we can only meet collectively and in a partnership of all sectors of South African society.

5 The Ministry of Education is mindful that the struggle for a democratic education system has played a central role in defining the parameters for change. The gains from this struggle have been obtained at an exorbitant human and social cost. We acknowledge those who fought so hard for the human right to a free and equal basic education.

6 We owe it to them, to ourselves and future generations to make a sharp break from the educational inequity and deprivation of the past. The Ministry of Education invites all South Africans to join the project of establishing a democratic education and training system, which will open the gates of learning and culture to all, and ensure that our nation's human resources and potential are developed to the full.

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