



Optional Protocol to CEDAW

Inquiry Request into domestic violence in South Africa



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Ikgameng Centre
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National Shelter Movement of South Africa
Nisaa Institute for Women's Development
North West University
Omphile Community Care Centre
Opret Advice Office
Reamohotswe Group
Peddie Women's Support Centre
Retlegile Community Partnership Care
Rural People's Movement
Saartjie Baartman Centre Western Cape
Sangoco (North West Province)
SAWID
Soul Winners Women's Support Centre (Libode)
South African Council of Churches Network
South African Media Gender Institute
South African San Institute Northern Cape
Thapelo Centre
Thoafalo Training Centre
Thusanang Community Care
Tigris Learning Centre
Tshwaranang Resource Centre (Queenstown)
Tsholofelo Home Based Care Group
Tshwaranang Northern Region Resource Centre
Tsomo Women's Support Centre
Umthatha Women's Support Centre
Unakekelo Community Centre
VEP Forum (Eastern Cape)
Victim Support Centre (Eastern Cape)

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List of Acronyms Utilised in this Document

AIDS	Aquired Immune Deficiency Syndrome
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
DV	Domestic Violence
GR	General Recommendation
HIV	Human Immune Deficiency Virus
ICD	Independent Complaints Directorate
NGO	Non-Governmental Organisation
NIDV	National Instructions on Domestic Violence
NPA	National Prosecuting Authority
OP	Optional Protocol
SAPS	South African Police Services
UKUTHWALA	Is an Nguni Cultural prActice whereby an intending bride groom, together with one or two friends, would waylay a desired bride in the neighbourhood of her own home, and forcibly take her to the young man's home, thereby pre-empting marriage negotiations
VEP	Victim Empowerment Programme

Request for CEDAW Inquiry

Part 1

Introduction

Some 60 Non-Governmental organisation's developed South African's first Shadow Report on the Convention on the Elimination of all forms of Discrimination Against Women and submitted this to the CEDAW committee in 1998. The focus of that report was on violence against women in South Africa because this was seen at that time as a critical problem facing women. 14 years later, violence against women and domestic violence in particular continues to plague the lives of most women in the country.

It is important to note that the Concluding Observations of the 1998 report called on the state to address various areas of concern with respect to violence against women. Some of the concluding observations were taken up by the state and some improvements resulted. However the majority of concluding observations have yet to be implemented.

The state failed to comply with the conventions reporting requirements and reneged on 3 reporting periods. This has had the effect of limiting the progress that could have been made and diluted the gains that the state has made.

The state reported in January 2011 and since receiving the concluding observations, has made a concerted effort to fast track changes in respect of women's rights generally and violence against women specifically. Most notably, the state has recently established a National Council on Gender Based Violence that aims to pull together all state responses in the country in order to strengthen then and to have a more coherent, integrated response to ending violence against women. The council is yet to demonstrate effectiveness or to implement its powerful Terms of Reference.

Members of the task team attended the period reporting session in Geneva in 2011 and observed the South African state reporting on the progress it has made in respect of ending discrimination against women. The team were concerned that the high levels of violence against women were not fully acknowledged. An agreement was reached to investigate further mechanisms to improve state accountability in this respect.

Following the Geneva meeting, the task team worked together for a year to gather information on the state's implementation of the CEDAW convention. Domestic violence was found to impact on all aspects of women's lives and affected their enjoyment of their human rights, prohibited them from fully participating in all aspects of social, cultural, economic and political life and caused them great distress and fear.

State responses to domestic violence were reviewed. Interviews with individual women provided information on how the State was facilitating women's access to justice. Community surveys, a review of research reports, focus group discussions with NGO's and community meetings provided valuable information on the effectiveness of the State in addressing this problem.

An important part of the development of this request for an inquiry came from a review of State obligations emanating from the various national, regional and international instruments to which the State is a signatory. Understanding what kind of responsibility and accountability the State has in relation to the instruments that it has ratified or acceded to, and reviewing this against the experiences of women across the country made it clear that there is a disconnection between women's lived realities and what the State is obliged to fulfill. Clearly domestic violence is so severe in South Africa that it results in grave and systematic violations of women's human rights as espoused in article 8 of the Optional Protocol to CEDAW. The violations are ongoing. They have taken place since entry into force of OP CEDAW. Media reports and the experiences of women indicate that domestic violence is increasing.

The secretariat of this task team is coordinated by Masimanyane Women's Support Centre.

As a collective we are requesting the CEDAW committee to conduct an Inquiry under article 8 of the Optional Protocol to CEDAW into the high levels of domestic violence in South Africa. We view domestic violence as a form of discrimination against women and results in the denial of their rights and freedoms.

South Africa has defined domestic violence in its Domestic Violence Act of 1998 as:

“physical abuse; sexual abuse; emotional, verbal and psychological abuse; economic abuse; intimidation; harassment: stalking; damage to property: entry into the complainant’s residence without consent, where the parties do not share the same residence; or any other controlling or abusive behaviour towards a complainant, where such conduct harms, or may cause imminent harm to, the safety. Health or wellbeing of the complainant;”

Furthermore, the Act defines how they perceive a domestic relationship as:

“A domestic relationship means a relationship between a complainant and a respondent in any of the following ways:

they are or were married to each other, including marriage according to any law, custom or religion; they (whether they are of the same or of the opposite sex) live or lived together in a relationship in the nature of marriage, although they are not, or were not, married to each other, or are not able to be married to each other; they are the parents of a child or are persons who have or had parental responsibility for that child (whether or not at the same time); they are family members related by consanguinity, affinity or adoption; they are or were in an engagement, dating or customary relationship. 20including an Actual or perceived romantic, intimate or sexual relationship of any duration; or they share or recently shared the same residence.”

We have examined the CEDAW convention including General recommendation 19 and note that domestic violence is deemed to be a form of discrimination against women as article 1 of CEDAW indicates. We have studied domestic violence as it occurs in women’s lives and we conclude that domestic violence is pervasive in the lives of women and therefore it is a pervasive form of discrimination against women resulting in the violation of their rights.

This national CEDAW task team collective has agreed that this definition will be used together with an understanding of gender based violence as espoused in the CEDAW convention.

Context

Violence against women is endemic in South Africa. It is one of the most profound ways in which women and girls experience discrimination in the country. In homes across the country, women are routinely experiencing many forms of domestic violence including physical, psychological, sexual, financial, emotional, verbal and economic abuse. Women are harassed by their partners, stalked, isolated, and deprived economically. The Medical Research Council recently reported that one woman is killed every 8 hours (or three every day) by their husbands or partners making femicide one of the leading causes of women's death in South Africa.

Child and forced marriages are practised in some parts of the country. Girls as young as 12 are married to older men making them hugely vulnerable to domestic violence and many other forms of human rights abuse.

Domestic violence is recognised by the State as one of the most critical problems that women face daily which has led to the development of a very strong human rights and legal framework aimed at protecting women. However, the growing number of women seeking protection orders from the State and the growing numbers of women being killed, indicate that the current responses are not having the desired effect of reducing or eradicating domestic violence.

The country is 19 years into its transformation from the oppressive apartheid state to a democratic form of government in which all the people of the country are free and equal. These hard won principles are enshrined in a very progressive Constitution and Bill of Rights.

Many important changes have been made in the country to ensure that there is no longer any institution, any law or policy and any programme that undermines the dignity and human rights of the people. The process of transforming all the relevant laws and policies as well as ensuring that there are appropriate institutions and mechanisms that entrench the principles to equality and justice is a long and challenging process. None the less, there has been a significant shift towards building a strong democratic society based on human rights, equality and equity. 19 years since the dawn of democracy, South Africa is considered a shining light by all of Africa and the world because of a relatively peaceful transition from apartheid to democracy.

However, there continue to be areas of concern to the government and the nation as a whole. Poverty remains the biggest challenge in the country.

The poorest people in the country are Black African women who suffer inequality and injustice. Poor health, lack of access to education, economic dependence, violence and HIV/AIDS are all intensified by poverty. The high levels of poverty have their roots in the past era and though there are cries to ignore the past, the impact of apartheid will remain for decades to come. This poverty results in women's economic dependence and is one of the root causes of violence against women.

The State has developed its responses to violence against women and strengthened those over time. The custodian of the State's response to violence against women is the Ministry for Women, Children and People with Disabilities. They work in partnership with the Department of Justice which is responsible for administration of the courts and improving women's access to justice. The Department of Justice as the National Prosecuting Authority who hold responsibility for administering the Domestic Violence Act, the Maintenance Act, the Customary Marriages Act and other relevant Acts.

The Ministry of Women, Children, Youth and People with Disabilities in response to one of the concluding observations of the CEDAW committee in January 2011, has established a National Council on Gender Based Violence which is to oversee the strengthening of State responses to violence against women. This council is still in the set up phase but has an impressive terms of reference.

Ten years ago the State initiated a Victim Empowerment Programme that provides counseling support to survivors of crimes including survivors of domestic violence. This programme has gone a long way in developing capacity in the country to support all victims of crime but women have benefitted the most where VEP programmes have been established. The drawback is that not all police stations are compliant with the law.

Scope of the problem

Statistics

The annual crime statistics for 2010-2011 provided by the South African Police Services (SAPS) showed that overall crime decreased and the murder rate dropped by 6.5% in 2010-2011. Despite this overall decrease there was an increase of 5.6% in the number of women who were murdered during this period.¹ In addition the number of reported rape cases increased from 55 097 to 56 272. The then Minister of Police, Nathi

¹Machisa, M. South Africa: Domestic violence must be included in crime stats. Downloaded from <http://www.genderlinks.org.za/article/south-africa-domestic-violence-must-be-included-in-crime-stats-2011-09-13>

Mthetwa, admitted many cases are not reported to the police thus the Actual number of women raped was much higher.

There are however no national statistics on the number of women who experience domestic violence as this is not codified as a separate category in the annual SAPS crime statistics. Cases of domestic violence are included as cases of assault or assault with intention to cause grievous bodily harm. Most incidents of assault (35.7%) and sexual offences (29.8%) took place at home, while 18.5% of sexual offences took place at someone else's home.²

The information gathered for this report including a review of current research, interviews with survivors and reports from NGO's, clearly shows that domestic violence is rarely a "once off incident". Rather, it is a series of events and constitutes ongoing, multiple experiences of a variety of forms of violence that form a pattern over time and in many cases results in serious physical injury, mental anguish or mental ill health and ultimately in death of the woman victim.

There are many forms of domestic violence such as forced isolation, stalking or verbal abuse which are not accommodated in South African Criminal law giving women no protection from these forms of violence. In addition, communities blame women increasing their shame for the domestic violence they suffer. In addition, most crimes of domestic violence are not reported to the police for fear of intimidation, shame, fear of not being believed, self-blame, or fear of retaliation.

What we do know from research and from the work carried out by this team is that DV is widespread throughout the country and that women of all ages, from all races, cultures, areas, economic status, religion and educational background are experiencing domestic violence.

A study undertaken by the Medical Research Council of South Africa and the NGO, Gender Links, has provided information on the size of the problem by interviewing women who are survivors and men who are perpetrators of DV.

Their study found that 51,2% of all women interviewed had experienced violence against women in one or another form while 78,3% of men admitted to having committed Acts of violence against women.

Emotional violence was the most prevalent form of abuse with 43,7% of women having been subjected to such violence and 65,2 % of men disclosed that they had perpetrated this form of VAW.

² Domestic Violence and Abuse in South Africa. <http://divorceattorneys.wordpress.com/tag/domestic-violence-Act/>

33,1% of women revealed in the study that they had experienced multiple forms of violence and on multiple occasions (30,8%).

The study further reported that 30,8% of women experienced and 43,4 % of men perpetrated more than one episode of physical violence. Some men justified physical violence as a corrective measure of wrong behaviour. 25% of women and 33% of men interviewed perceived social norms as endorsing punishment. 22.3% of men agreed that men had a right to punish their wives compared with 8.8% of women.

25,2 % of women had the experience of being raped by a man whether a husband or boyfriend, family member, stranger or acquaintance while an even higher number of men (37.4%) admitted to ever raping a woman. More women had experienced sexual violence than men. 4,7% of men said they had perpetrated violence over a woman in the last year.

Overall 22,3% of every partnered women had experienced economic abuse and 28,5% of every partnered men disclosed having perpetrated economic abuse. Half of the women who had experienced economic abuse, had experienced it in the past year.

Jewkes, Penn-Kekana, Levin, Ratsaka and Schreiber, 1999 conducted a survey of 269 women who had contacted helping agencies in three major cities and found emotional or physical abuse to be the most prevalent form of domestic violence experienced by women, with 90 percent of the sample having experienced this abuse (Bollen et al, 1999)³. They also found that in some areas in which the study was conducted, at least 25% of respondents had experienced abuse at the hands of their partners or ex partners in their life time, and up to 50% had more than one experience of such violence.

A further indication of the incidence of DV in SA is the number of protection orders which are applied for. During 2010/2011 almost 300,000 women applied for a protection order. Comparisons of the statistics provided by the NPA from 2006/2007 to the 2010/2011 statistics show a marked increase in the number of applications for protection orders which are a provision within the Domestic Violence Act.

The National Prosecuting Authority is responsible for administering the Domestic Violence Act. The NPA has compiled the following reports of domestic violence over the last 5 years by recording the number of protection orders that have been applied for.

³Amanda Dissel & Kindiza Ngubenil: *Giving Women their Voice: Domestic Violence and Restorative Justice in South Africa* <http://www.csvr.org.za/docs/crime/givingwomenvoice.pdf>

DOMESTIC VIOLENCE STATISTICS			
2006/2007			
REGION	APPLICATIONS	TEMPORARY ORDERS	PROTECTION ORDERS
Eastern Cape	13903	10511	5400
Free State	3594	1947	2094
Gauteng	25750	16883	14861
Limpopo	8865	6156	4311
Mpumalanga	6901	3914	3393
North West	3665	1869	1981
Northern Cape	1791	1030	760
Western Cape	25856	15860	14715
Kwa Zulu Natal	29535	17254	15498
Total	119860	75424	63013

In 2006/7 we note that the National Prosecuting Authority started a simple system of collecting information on the number of protection orders being applied for and the Action taken in terms of those applications. It was the start of the process. However, what we started to see from these statistics is that the number of Actual protection orders that are granted, are far less than the applications which are made. This is due to a number of factors, including women fearing reprisals from their partners, their families and even their communities. In many communities, women are dependent on their partners for support of themselves and/ or their children, making it difficult for them to follow through on their applications for protection orders. Many women have reported that the police have given them problems when they report cases of domestic violence. For example, they have told women that “this is a private matter which should be dealt with privately”. In a case dealt with by an NGO, the police told the woman applying for a protection order that he knew her partner and he could not possibly be violent. This is not unusual. This was a common complaint heard during the interviews conducted with women.

DOMESTIC VIOLENCE CASES PER REGION					
2007/2008					
REGION	APPLICATIONS	PROTECTION	WARRANT	CASES	CASES PROCEEDED

		ORDERS	EXECUTED	WITHDRAWN	TO TRIAL
Eastern Cape	20,653	6,861	516	1,360	3,226
Free State	9,233	3,596	375	908	3,989
Gauteng	44,000	22,688	3,406	5,508	14,833
Kwa-Zulu Natal	27,836	12,530	862	4,080	9,904
Limpopo	11,326	6,210	267	700	3,429
Mpumalanga	11,574	5,433	335	1,710	2,981
North West	7,365	3,844	677	881	2,342
Northern Cape	4,661	1,800	198	410	2,433
Western Cape	30,699	17,148	1,987	3,231	4,169
Total	167,347	80,110	8,623	18,788	47,306

In the 2007/2008 report, we begin to see that the number of applications for protection orders increases quite significantly. It is important to note that the State has improved its database to reflect information that tracks applications for protection orders more clearly and documents the outcomes of that application process.

Of the 167,347 applications for protection orders made during the course of the year, less than 50% actually had protection orders granted. Only 8623 warrants of arrest were granted while a mere 47306 cases went to trial. A total of 18 788 applications were withdrawn. This tells us that the awareness of women about the Domestic Violence Act and the provisions has grown considerably and that women were attempting to use this instrument. However, the effectiveness of the mechanism is hampered by withdrawal of cases and the lack of follow through on applications. The research done by some groups shows that a good percentage of withdrawals are due to State in action or State agents not following the letter of the law but rather applying mediation tools which they are not called to do.

DOMESTIC VIOLENCE STATISTICS

2009/2010

PROVINCE	OLD APPLICATIONS	NEW APPLICATIONS	TOTAL APPLICATIONS	ORDERS GRANTED	MADE FINAL	SET ASIDE	WITHDRAWN/ STRUCK OFF THE ROLL	WARRANT ISSUED FOR BREACH
Eastern Cape	6,410	34,852	41,262	17,346	10,655	1,573	6,729	1,523
Free State	5,551	15,297	20,848	8,440	5,152	2,302	2,053	1,431
Gauteng	10,646	39,965	50,611	29,435	15,269	6,622	10,708	2,511
Kwa Zulu Natal	15,979	43,592	59,571	28,870	14,409	11,762	9,032	2,954
Limpopo	6,533	15,874	22,407	11,783	8,110	2,101	2,092	635
Mpumalanga	3,273	14,354	17,627	10,096	5,294	2,116	3,105	1,123
North West	4,318	13,058	17,376	8,006	3,461	696	2,521	1,303
Northern Cape	3,580	7,924	11,504	4,426	1,989	705	2,102	282
Western Cape	10,024	40,316	50,340	22,757	12,839	3,277	11,024	3,186
Total	66,314	225,232	291,546	141,159	77,178	31,154	49,366	14,948

Of the 167 347 applications for protection orders made in the previous year, 66314 were still pending in 2009-2010. We see an increase in the number of new applications to 225232 in the 2009/2010 reporting period. Of the total applications made, only 48% were granted while 26% were made final. 10% of all applications were set aside while 17% were struck off the roll.

These statistics are important for us as they raise questions about the full and proper administration of the domestic violence Act and the protection order mechanism. Women are accessing the protection order mechanism but then we note a breakdown in the full application of this.

We acknowledge the efforts of the State in addressing domestic violence more constructively through the capturing of more detailed statistics and categories of statistics. Protections orders do provide some women with protection, but in many cases they are not enough of a deterrent or they are used against women. It is the duty of the State to ensure that this instrument provides women with full protection; that is widely known by all women in the country and that police and the courts are fully trained to ensure full implementation of the Domestic Violence Act.

Forms and manifestations of domestic violence

Two cultural practices were highlighted during the research leading to the compilation of this report that give rise to DV, namely ukuthwala and polygamy.

Ukuthwala is a harmful cultural practice of child and forced marriages. Sometimes families are complicit in that a man approaches a family and tells them that he wants to marry their daughter. He offers lobola (bride price) which the family may accept. The girl is completely unaware of this arrangement. She is then waylaid on her way from home or to home and forcibly abducted. She is taken to the home of the man where she is told that she is now his wife. Many such young girls are subjected to rape and become compliant as a result.

These young girls suffer untold misery as they take on household duties often being controlled by an older wife or a mother in law who treats her badly.

Some young girls are allowed to attend school to hide the fact that they are married but they have to return to the man's home and carry out the duties of a wife. Many are barred from attending school and end up poorly educated and dependent upon a man. Some of these young women fall pregnant and give birth while still very young. Many develop reproductive problems. The sharp rise in maternal deaths can be the result of these forced marriages. There is a lack of access to family planning or even health care. Many suffer terribly from rape in their marriages and some die from other forms of violence in their lives. Many young women get infected with HIV or get AIDS because the man has multiple concurrent partners.

The following is a media report on this phenomenon.

By Joanne - Posted on 09 December 2009

PALMERTON, South Africa — Nolizwi Sinama was 14 years old when her family swapped her for three cows and forced her into marrying a man three times her age.

Now staying at a local shelter for abused youth, the shy teenager fidgets nervously and fights back the tears as she talks about her three-year ordeal, during which she was raped daily.

Her family abandoned her at the house of her new "husband," a 42-year-old widower from KwaCele village, in a once-forgotten practice that is now being revived by poor, rural South African families desperate for money.

Sinama's case mirrors that of hundreds of other girls in rural parts of the impoverished Eastern Cape province, where nearly 200,000 people live on less than a dollar a day.

The ancient marriage custom, called ukuthwala, meaning "to be carried" in the Xhosa language, is a pre-arranged Act where a man who had tried in vain to court a woman resorts to forcing her into marriage.

In the past the victim was normally an adult, but now men as old as 60 are abducting pubescent girls and forcing them into illegal customary marriages, outraging cultural Activists and welfare authorities.

"It all happened too fast," said Sinama, who now stays at a local shelter. "One day I was a normal girl attending school, the next day I was living with an unknown family and an old man who forced me to have sex with him daily."

"I could not go back home, my grandmother told me never to come back. They sold the cows and got money," she added.

Now 17, she escaped her tormented married life in July and found solace at Palmerton care centre, which has also become a home to 18 other teenage girls who escaped similar situations.

Polygamy

South Africa sanctions polygamy through the Customary Marriages Act. This Act allows men to have more than one wife. The Act was developed to protect women already in polygamous marriages as women who were "succeeded" by later wives were not allowed to inherit from their husbands. Customary marriages are deeply discriminatory and prohibit women from equality. Women in polygamous marriages report that

they suffer untold discrimination and are vulnerable to HIV and other sexually transmitted diseases at a greater rate than women in monogamous marriages. Customary marriages violate Articles 1 and 2 of the CEDAW convention.

Impact of Domestic Violence on Women's Lives

Domestic Violence results in poor health outcomes for women. Problems range from slight to severe. Many cases of domestic violence involve sexual violence including rape in marriage and incest. In the Gender Links and Medical Research Council study, they found that 25,2% of women had experienced being raped by a man including husbands, boyfriends, family members, strangers or acquaintances while 37,4 % of men admitted to ever raping a woman. Women who experience this kind of violence in their domestic relationships told us during the fieldwork that they are at risk of having unwanted pregnancies, can resort to unsafe abortions, suffer a range of sexually transmitted diseases including HIV and can have other reproductive tract infections or abnormalities. Others reported headaches, gastrointestinal problems, a lower immune system, and vulnerability to respiratory ailments, depression, mental health problems and a range of reproductive health problems. Women develop lifelong conditions such as high blood pressure, high levels of cholesterol, diabetes and even arthritis because of the stress of domestic violence. These illnesses are rarely traced back to the phenomenon of domestic violence.

Jane is a 34 year old woman. She has been married for 14 years to the same man. He is a drug addict and does not work. He sometimes sells drugs. His abuse includes verbal abuse, denigration, financial abuse, and physical violence. The worst though is the sexually abuse. When he is drugged, Jane's husband insists on anally raping his wife using objects that include broom handles and other objects that cause terrible pain to his wife. He threatens to kill her if she does not comply then rages at her for being compliant. This form of sexual abuse has resulted in problems with her reproductive trAct including causing infections and constant pain and discomfort. He also has other women and she has had many sexually transmitted infections which she treats herself. Medical help is not possible for Jane as says as she is too scared to tell a doctor what has happened to her.

Domestic Violence and HIV/Aids

HIV infections are very prominent in the South African context. Women with violent or controlling male partners are at increased risk of contracting HIV. A survey among 1,366 South African women showed that

women who were beaten by their partners were 48 percent more likely to be infected with HIV than those who were not (Dunkle, et al., 2004)ⁱ

It has also been shown that many new infections are the result of multiple concurrent partners with males being at the forefront of this kind of sexual behaviour. Women in customary marriages expressed feeling vulnerable to sexually transmitted infections including HIV because of multiple marriages. Older women are finding that they are infected because some men feel that it is acceptable to have more than one partner.

My husband was my first boyfriend. I have never had sexual relations with anyone else while he on the other hand loved many women. Yet, when I tested positive for HIV, he blamed me. Not only did he blame me, but he threw me out of our home and kept the children. No one wanted to support me. I was left with no medical aid, no place to stay etc. He convinced the social workers that I was at fault; that I was a bad mother that I was causing trouble in his life. I lost everything. Because he is an important man in government, everyone believed him.

M. White was the first woman to win a case against the State in a case that is considered a landmark case in the country. Marilyn had a protection order against her husband for his violence towards her. He came to harass her one night. She called the police. They came and took him away but released him later that night rather than effecting the warrant in breach of the protection order. He went back to the house and raped Marilyn. He was HIV positive. Fortunately for her, she did not contract the HIV.

Her ex husband has since died as a result of complications from AIDS. M. White won the case which was unsuccessfully appealed by the Minister of Police. She was paid out but the finalisation took some 7 years in the courts and caused her great distress.

Women and Pregnancies

Many women report that they fall pregnant due to domestic violence. Their partners refuse them the use of contraceptives and get violent when the women fall pregnant. Some abusive husbands force their partners to have abortions while others force them to have multiple pregnancies even if those pregnancies are detrimental to their health. Women who cannot fall pregnant suffer the most and NGO's and communities report women being killed because they do not fall pregnant are.

My sister had just graduated with her degree when her husband demanded a baby from her. She tried and tried but could not fall pregnant. After an intense quarrel about him wanting a baby, he took a gun and shot her dead. He was never sent to jail because he claimed that she attacked him and he defended himself.

Sister of the victim – Idutywa Eastern Cape

Pregnant women who are in domestic violent relationships often do not get medical care because they are denied it by the controlling partner or because they fear the health professional “finding out” about the abuse in their lives. As a result, their injuries can intensify leading to a severe health outcome or even a disability. In 2011 the Minister of Health attributed some maternal deaths to violence during pregnancy. Many women are known to be dying as a result of domestic violence, but it is not reported as such. Head injuries are prevalent in domestic violence cases and these lead to memory loss, impaired thinking, mood and behaviour.

The niece of one of the writers of this Inquiry died as a result of her head being bashed against a wall by her husband. The hospital report said that she died of a brain haemorrhage. We know that in South Africa a woman is killed every eight hours but we also know that many women are dying as a result of domestic violence but these deaths are not reported as such. NGO representative.

Depression, Anxiety and Post-Traumatic Stress Disorder

Survivors of domestic violence are vulnerable to mental health disorders that are direct results of their victimization. Depression and severe anxiety are common problems for victims of DV relationships. These develop within the adverse conditions of violence and control, but can continue to be clinically significant when the relationship is over. Survivors may also develop Post-traumatic Stress Disorder which is a persisting reaction to trauma. Many women will require mental health treatment for symptoms of such disorders along with counselling that deals specifically with domestic violence recovery.

Substance Abuse

Victims of domestic violence are at risk for developing problematic substance use to cope with on-going abuse as well as the after effects of abuse. Prescribed medicines are often used to dull the pain of the abuse and this can lead to addictions which in turn can lead to the use of illegal drug usage.

Killing of Women in Domestic Violence Disputes

Most women who are killed in the country, are killed by their intimate partner; usually after the relationship has broken down. Some men have a tendency to kill the estranged partner while a significant number of men kill the woman and her children and in some cases, themselves. Domestic violence is almost always a factor in these deaths. Estranged partners have killed women in their homes, at their work places and often in front of family or friends. There have been reports in the media of men killing friends of their estranged partners in their attacks although this is not a widespread phenomenon. This Inquiry request has media reports attached which confirm how serious and widespread femicide is and most of it is a result of, or the culmination of domestic violence.

Most murdered women 'killed by partners'

2012-08-21 22:18

Pretoria - Most South African women are killed by their husbands, boyfriends or same sex partners, a Medical Research Council (MRC) study has found. "In South Africa every one to two women killed are killed by her partner," said MRC gender and health researcher Naeemah Abrahams on Tuesday.

The study, giving comparative figures of 1999 and 2009, indicated an overall decrease in female homicides as well as for intimate female homicides, referred to as femicides.

"Intimate femicide has become the leading cause of female homicide in South Africa," the report said.

The study also showed that rape homicides, where evidence of being raped was present, had proportionately increased.

Abrahams said the decrease in overall figures came as no surprise because police data indicated homicides had decreased in South Africa in last 10 years.

"We expected to see the same trend in female homicides, which make us confident in our data."

However, a comparison of all the figures indicated that intimacy homicides declined less."

SAPA (South African Press Association)

This growing phenomenon of intimate partner femicide has reached pandemic levels in South Africa and the link to domestic violence has not been explored deeply or widely enough. The focus on this matter is usually through sensational media reporting but when the hype dies down, the case is often forgotten.

Contributing factors

There are a number of factors which contribute to the high levels of domestic violence in South Africa. While arguments are made about poverty, unemployment, gender inequality, power and control are recognized as the main contributory factors, some research has highlighted factors specific to South Africa which are in part responsible for the high levels of domestic violence.

A study into gender based violence conducted by Desiree Lewis for Masimanyane Women's Support Centre reports on the writing of Amina Mama:

"In contexts where gender identities overlap with colonial ones, patterns of dehumanisation become even more complex. If colonialism and racism assume that certain persons are culturally and morally inferior, and gender hierarchies assume that women are wholly inferior, then the status of colonised or black women is especially diminished. This status is deeply embedded in different cultural images and texts. In turn, these cultural texts provide models for subjects to define themselves and their place in the world. As systems of representation and self-identification, therefore, both colonial and gender discourses actively perpetuate domination and corresponding Acts of violation and abuse".

Furthermore the study asserts:

"Apartheid engendered a culture of obedience, fear and deference policed by the ever-present threat of force and punishment. It also led to racial and gender identities intersecting in complex ways. While gender divisions in the domestic sphere assumed the dominance of men, contradictory power relations were played out in the public sphere. In the context of these, black men were designated as rightless and voiceless beings. In his survey of masculinities in Southern Africa, Robert Morrell uses the concepts of {hegemonic} and {subordinate} masculinities to describe ways in which gender is affected by racial lines of power (2001)."

Such situations inevitably affect men's sense of themselves. In much the same way that poverty and unemployment undermine certain men's assumptions of authority, so does racial subordination compromise certain men's assumptions of dominance. As Fanon (1986) has shown, the resulting psychological complexes are tremendous: they inevitably affect dynamics within families and relations between subordinate men and subordinate women. For certain men, the domestic sphere can become an alternative site for demonstrating ascendancy or for displaced anger.

Horrific cases of femicide or child abuse in the first decade of democracy need to be examined in relation to a history where men's aggressive authority and absolute entitlement over women was taken to be

"normal", where the obedience of women and children in tightly controlled families mirrored the broader social and political organisation of rigid authoritarianism.

Escalating gender-based violence is the symptom of an entrenched gendering process through which South African men, both black and white, have been taught to believe in their unquestionable authority, and their absolute right to control women and children. There has been growing awareness in recent years that this learned masculinity is a central dynamic in fuelling gender-based violence. We see this in studies of masculinity geared towards Activism, such as Mager and Blake's Masculinities in the Making of Gendered Identities: A Getnet Guidebook for Trainers (2001). As shown below, we also see it in the rise of programmes that centralise men's roles in transforming a generic culture of violence.

Conclusion

In summary, what was concluded about domestic violence in South Africa by research conducted 14 years ago still remains true today. Domestic violence is a common phenomenon. The range of abuses that women experience is wide, and includes physical, sexual, psychological and economic abuse, as well as stalking, forced isolation in the home and other controlling behaviours.

- Most cases of domestic violence and rape are not reported to the police.
- Even when domestic violence and rape are detected by the criminal justice system, the perpetrator frequently goes unpunished: only 9% of rape cases reported to the police in 1998 resulted in a conviction, while in 2010/2011 this figure was approximately 10%.
- The results of domestic violence are severe. The trauma of abuse is life-long and affects a woman and her children not only physically, but also emotionally and psychologically.⁴

Domestic violence is clearly a serious problem in South Africa. It is however an almost invisible problem in that the full extent of this phenomenon is not really known. The State has failed to quantify the problem because no data bases have been developed or research done by the State to determine the full extent of violence against women. NGO reports, media reports and anecdotal information together with community surveys give a picture of the true extent of the problem. There is enough evidence that domestic violence has a severe impact on women's lives and on the lives of their children, their families and their communities.

⁴ Bollen, S., Artz, L., Vetten, L., Louw, A. (1999). *Violence Against Women in Metropolitan South Africa: A study on impAct and service delivery*. Institute for Security Studies Monograph Series No 41, September 1999. Also available at: <http://www.iss.co.za/Pubs/Monographs/No41/Contents.html>.

Domestic violence is eroding women's rights to live with dignity, with respect, to be protected, and to be safe and secure at all times and in all spheres of their lives. In too many cases, women are losing their health and even their lives to domestic violence. The current status of women in relation to domestic violence is a direct violation of the constitution of the country, the CEDAW convention and in particular Articles 1,2 and 3 which establish an obligation on the State to eliminate all forms of discrimination against women.

Article 12 speaks to the protection of women's health and we have seen that domestic violence has a negative impact on many aspects of women's health thus violating this article within the convention.

With regard to child marriages, forced marriages, customary marriages and polygamy, article 16 of the CEDAW convention puts an obligation on the State to eliminate discrimination related to women.

It is important to note here that the CEDAW committee has put forward a number of Concluding Observations in the most recent reporting sessions EDAW/C/ZAF/2-4) (January 2011) asking the State to make greater effort to address the concerns raised by the committee. In respect of violence against women, the Concluding Observations make reference to violence against women in article 24 of the Concluding Observations.

"Violence against women

24. While noting that based on a multi-sectoral approach at the operational level a number of policy, legislative, administrative, victims empowerment and other measures have been put in place to combat violence against women in the country, the Committee expresses its serious concern at the inordinately high prevalence of sexual violence against women and girls and widespread domestic violence. The Committee is also concerned that such violence appears to be socially normalized, legitimized and accompanied by a culture of silence and impunity. It is further concerned at the low levels of prosecutions and convictions; and at reports indicating that some police officers fine rape perpetrators in lieu of reporting the cases. The Committee regrets the lack of information on the impact of the measures and programmes in place to reduce incidences of all forms of violence against women and girls. The Committee is also concerned that social support services, including shelters, are inadequate due to appropriate budgetary allocations."

Further Concluding observations that are of great importance and which the State is required to report on by 2014 are articles 15 and 42. Article 15 of the concluding observations reads:

“The Committee calls upon the State party to expedite the consultations of the Green Paper towards a Gender Equality Bill in order to submit it as soon as possible for adoption to the Parliament and achieve de jure equality for women and compliance with the State party’s international treaty obligations; and, to fully incorporate into the Gender Equality Bill the principle of equality between women and men in accordance with article 2(a) of the Convention, as well as to prohibit discrimination on the basis of sex in line with article 1 of the Convention and other relevant provisions of the Convention”.

Article 41 of the Concluding Observations are also important when addressing domestic violence.

“Marriage and family relations

41. The Committee notes that the Constitutional Court of South Africa has held as discriminatory, thus unconstitutional, rules of customary laws on marriage and succession. The Committee also notes that as a result of these judgements, a reform to the Customary Law of Succession and Related Matters Amendment Bill that seeks to abolish the customary law rule of male primogeniture is currently under discussion. However, the Committee is concerned that other customary and religious laws and practices that discriminate against women in the field of marriage and family relations, such as polygamy, are being upheld by the State party’s preservation of a combination of civil, customary and religious marital regimes and by the adoption of legislation such as the Customary Marriages Act

A drastic change in State response is required to reduce the high levels of domestic violence and to fulfill the State’s duty to protect the rights of all its citizens.”

Part 2

State obligations

Case study

BS – Domestic Violence / Maintenance Order / Attempted Murder

BS came to our office in a State of hopelessness, depression, and trauma; you could read that from her face as she was crying for help. She complained that she had been too many offices before, which proved to be a futile exercise and that ours was the first office that was warm and helpful to her.

BS was in a relationship with her boyfriend for some years and they had two children. He started a relationship with another woman and BS was subjected to beatings and verbal abuse. She approached the police for a protection order against her ex-boyfriend.

Her first visit to our office was on the 2st February 2011, where she complained that she had a protection order that seemingly was not useful to her. She had two protection orders; one in 2009 and another in 2011. Both were granted with warrants of arrest but incidents of domestic violence were still continuing even though she reported them to the police. The one for 2009 was seen as invalid by the police so she then re-applied for a new protection order but her boyfriend continued with his harassment and violence against her unabated. She could not evoke the warrant of arrest because the police refused to do so.

She approached our offices regarding the second protection order through a local police station because she could not finalise the application. As late as 2012, there was no response and no progress. We phoned the investigating officer, who told us that the case has been withdrawn due to a lack of evidence, and referred to us to the prosecutors dealing with the matter for further information. BS went to the prosecutors and was asked to write a letter of appeal to the Senior Public Prosecutor, which she submitted, but no response to her letter of appeal was received.

We then assisted BS with a maintenance application which to date has not been finalized. Their first appearance in relation to the maintenance application was on the 8th April 2011 where her boyfriend denied paternity of the children which led to a DNA test having to be done. On the 23rd May 2011, the results were obtained and that proved that he was in fact the father of the said children. He became aggressive and violent towards BS, insulting her using vulgar language, in front of the maintenance clerk. BS then reported the incident to Fleet Street Police Station, and on 25th May 2011 the partner was arrested. He swore at her

again in front of the investigating officer promising he would kill her as soon as he is released. ON the 2nd June 2011, he appeared for a bail hearing and although the magistrate was informed of his violence and the fact that there was a protection order against him, he was granted R300 bail. On the 7th July 2011, he appeared in court again where the case was withdrawn without BS being consulted or being invited to attend the hearing. She had three domestic violence cases pending against the man. No one considered her security.

The Maintenance matter continued with many challenges as well. Even though the DNA results confirmed his paternity, BS ex-boyfriend refused to accept responsibility. He was adamant that he would not pay maintenance for the two children. When the case was before the court, BS was requested by the maintenance prosecutor to bring witnesses to prove that the children were indeed her partner's children. She had to do this at her own expense. After a further hearing, BS ex-boyfriend eventually accepted the older child as his and an order of R700 was made with regards to that child which he only paid until November 2011. The younger child's matter is still pending even though the DNA tests proved the child to be that of BS and her partner...

On the 29th August 2011, BS ex-boyfriend went to her workplace where he shot her three times and struck her in the arm. He held the gun to her head and fired a further shot but there were no more bullets in the gun. She managed to survive and opened a case of attempted murder against her ex-boyfriend. She was very angry because he had threatened to kill her in the presence of the police and they still did not assist her with the protection order.

The man was eventually arrested and kept in prison until he went on trial. He made several attempts to apply for bail where on the 13th February was granted for R500. On the other hand her maintenance case was delaying until she went to see a senior manager at the regional justice office complaining about the matter. She pointed out that she was not given a court appearance date and was constantly referred back to maintenance officers. They said it was difficult to actually give her date as her ex-boyfriend was still under arrest. BS was unhappy that no Action was being taken.

He ex-boyfriend petitioned the courts repeatedly and eventually he was granted bail. BS did not understand why on this particular day bail was granted even though he did not produce any new facts.

BS came to our offices fearing for her children and not knowing where to go.

BS had approximately four cases against this man, none of which were finalized since the beginning of 2011. All these incidents happened to her with protection orders in place but three were withdrawn without her knowledge and without consulting with her. Her ex-boyfriend was arrested after she obtained her fourth protection order but he was granted bail after seven days.

BS's ex-boyfriend told the court that after shooting BS, he left her because he thought that she was dead. He made this a confession himself during a court appearance, yet he was still granted bail. He told the magistrate that she is waiting to "finish the job he started".

Upon his last appearance in court, BS's ex-boyfriend was fined guilty of attempted murder and sentenced to 6 years in prison. She now fears the day he is set free because he has said that he will come after her.

This case study is that a woman who sought help from one of the NGO's represented on the task team. It is one of many such case studies collected by the national CEDAW task team as they prepared for this request for an Inquiry into domestic violence. The case study illustrates the challenges that women face as they try to access protection using the Domestic Violence Act. It shows the challenges faced when dealing with the police and the courts.

We will now examine State obligations under the various national, regional and international instruments to which the State is a signatory or which the State has ratified.

The Constitution

The South African Constitution and the Bill of Rights is the primary instrument that sets the foundation for ensuring the human rights of all citizens within the country. The Constitution establishes the principles and values that the State subscribes to.

The Bill of Rights, enshrines and protects fundamental human rights, including the right to be free from violence.

The following extracts from the constitution clarify the States obligations.

- **Section 10 – Human Dignity**

The constitutional protection of human dignity recognizes that every human being must be treated as equally worth of respect regardless of any status or position in society. Respect and protection for the inherent dignity of female children and women requires an acceptance that they are not inferior beings, but that they are capable of making their own choices and decisions. They therefore have the right to make

decisions in terms of their sexuality, health, and marital status. In a constitutional framework, human dignity is both a value that underpins the constitution and also a right linking human dignity with a number of constitutional rights. Therefore any conduct that undermines the dignity of a person violates the constitution creating an obligation on the State to address such conduct.

- **Section 12 - Freedom and security of the person**

Section 12 of the Constitution guarantees everyone the right to freedom and security. This freedom includes the right to be free from all forms of violence from either public or private sources; not to be tortured in any way; and not to be treated or punished in a cruel, inhuman or degrading way. There is no doubt that any form of violence against any individual is a grave invasion of personal security.

- **Section 28 - Children**

Section 28 provides that children should be free from violence, coercion, discrimination, intimidation and abuse. Section 28(1) (d) explicitly States that all children must be protected from maltreatment, neglect, abuse or degradation. There is therefore an obligation on the State to protect the rights of children especially those living in violent homes.

States Obligations to Protect Constitutional Rights - Section 7

Section 7 of the Constitution obliges the South African State to respect, protect, promote and fulfill the rights in the Bill of Rights, hence placing a positive duty on the State to realize the rights contained in the Bill of Rights and ally this to all citizens. Section 9 of the Constitution deals with Equality and prohibits discrimination on the grounds of gender and sex.

- **Section 205(3)**

This section provides that the objectives of the police service are ‘to prevent, combat and investigate crime, to maintain public order, to protect and secure the ²³inhabitants of the Republic and their property, and to uphold and enforce the law.’

This was reiterated in the Carmichele²⁹ case where the court held that *“the police is one of the primary agencies of the State responsible for the protection of the public in general and women and children in particular against the invasion of their fundamental rights by perpetrators of violence crime.”*³⁰ The court Stated further that the right to life, dignity and freedom and security of the person creates an obligation on

the State and all its organs to refrain from undermining these rights". The court Stated that it goes further as in some instances there is a positive duty to afford the appropriate protection through the law and structures in place.

The State has made many efforts to address the high levels of violence against women in the country. It has ratified numerous international human rights instruments as well as regional instruments that spell out State accountability to all of its citizens including women. These State obligations require the State to ensure the safety of women generally and particularly their protection from domestic violence. By signing and/or ratifying these Conventions South Africa has committed itself to the provisions of the specific provisions.

In fact, the preamble to the Domestic Violence Act calls on the State to:

'Have REGARD to the Constitution of South Africa, and in particular, the right to equality and to freedom and security of the person; and the international commitments and obligations of the State towards ending violence against women and children, including obligations under the United Nations Conventions on the Elimination of all Forms of Discrimination against Women and the Rights of the Child'.

There can be no doubt that the Act draws linkages to the obligations as specified in the international and regional instruments and places a responsibility on the State to ensure adherence to all the provisions of those instruments.

International obligations

Convention on the Elimination of All Forms of Discrimination against Women (Ratified by South Africa on 15 Dec 1995)

Gender-based violence has been recognised as a form of discrimination *'that seriously inhibits women's ability to enjoy rights and freedom on the basis of equality with men.'*¹³ In the South Africa context these rights would include the right to life¹⁴, the right not to be treated or punished in a cruel, inhuman or degrading way,¹⁵ the right to freedom and security of the person,¹⁶ the right to equality and equal protection and benefit of the law.¹⁷ It is therefore accepted in terms of this convention that domestic violence is an example of gender-based violence that is provided for in the convention as a form of discrimination. The definition of discrimination in CEDAW includes gender-based violence, *'that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes Acts that inflict physical, mental or sexual harm or suffering, threats of such Acts, coercion and other deprivations of liberty.'*¹⁸

Articles 2 and 3 of CEDAW establish an obligation on State parties to eliminate discrimination in all its forms. Traditional attitudes which regard women as subordinate to men or as having stereotyped roles propagate widespread practices involving violence 'which may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. In addition, gender-based violence puts the health of women at risk hence Article 12 of CEDAW places an obligation on State parties to provide equal access to health care. This implication here is that should a woman be injured or harmed in any way during domestic abuse, the State has an obligation to provide her access to health care services to prevent any further violation to her wellbeing and rights. Article 16 of CEDAW also necessitates State parties to eliminate gender discrimination in matters relating to marriage and family relations.

South Africa has enacted legislation, guidelines and instruction on how to deal with domestic violence cases, however this alone is not enough. The State has to take other positive steps in order to combat domestic violence like prosecution, arrests, training of staff dealing with domestic violence like police officers, magistrates and clerks of court and provision of health care services like counselling to the victims all of which are currently in a State of disarray.

In General Recommendation 19, the Committee on the Elimination of Discrimination against Women Stated clearly that *'family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence, forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality.'*

The committee has made it clear that domestic violence erodes the enjoyment by women of their human rights and their freedoms and therefore constitutes discrimination as defined by article 1 of the CEDAW convention. The CEDAW Committee has thus placed an obligation on signatory States to *"take all appropriate and effective measures to overcome all forms of gender based violence, whether by public or private Act"*.

This general recommendation provides very clear guidelines to the State on what it is required to do to protect women, provide support and ensure that they live free of all forms of domestic violence.

Regional Obligations

African Charter on Human and Peoples' Rights (Ratified by South Africa on 09/07/1996)

This Charter has further provisions that are binding on South Africa as signatory.

The obligations are as follows:

- **Article 2** of the Charter provides that '[e]very individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status'.
- **Article 4** States that '[h]uman beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.'
- **Article 5** provides that '[e]very individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly ¹⁷slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.'
- **Article 6** States that '[e]very individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law.'
- **Article 19**, like the Constitution of South Africa, acknowledges that '[a]ll peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

Domestic abuse in its nature is violent, degrading and in some cases life threatening. The victims' dignity and right to equality is not respected and/or valued by the abuser and by the State when it fails to combat

and prevent domestic violence. Further, this disregard can also be attributed to the State when it fails to prosecute perpetrators of violence and failing to train those that can assist in the prosecution of abusers and/or the assistance of victims. In fact, it undermines the rights that this Charter seeks to protect and advance. The Charter therefore compels government to take positive steps to ensure the protection of women and their rights.

Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Ratified by South Africa on 17/12/2004)

In line with section 10 of the Constitution of South Africa, which recognises human dignity as both a value that underlies the Constitution and a right in the Bill of Rights, **Article 3** States that *'[e]very woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights.'*

Article 3(4) provides that *'[s]tate Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.'* The obligations of the State parties are not limited to only enacting legislation instead there is an obligation to 'adopt and implement appropriate measures' that guarantees the protection of women's rights.

Therefore when we evaluate the obligations we need to ensure that we also examine other measures taken by the State or that the State should take in addition to enacting legislations. Like the constitution of South Africa, **Article 4** guarantees every woman the respect of her life, integrity and security of the person. Articles 4 lists a number of obligations that State parties must undertake including:

- a) Enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public;
- b) Adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women;
- c) Identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;
- d) Actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women;

- e) Punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;¹⁹
- f) Establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women;
- i) Provide adequate budgetary and other resources for the implementation and monitoring of Actions aimed at preventing and eradicating violence against women;

Again, the obligations for State parties are quite extensive and go beyond just enacting legislation and prosecuting perpetrators or simply promoting specific rights of women. For example c, d, f and i above create obligations on State parties to attempt to understand the causes of violence against women, discourage cultural and traditional practices that embolden violence against women. These are positive obligations on the State parties to explore and research the cause of domestic violence in order to address the causes as a way of combatting violence.

In the event of violation of women's rights in this Protocol, **Article 25** provides that '*[s]tates Parties shall undertake to provide for appropriate remedies to any woman whose rights or freedoms, have been violated and ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.*' The repetition of the word 'competent' suggests an obligation on the State party's to adequately provide training for the judiciary, the administrators and any other relevant authorities dealing with cases of violence against women. In the context of domestic violence training would have to be provided to the Magistrate, Clerks of the Court, prosecutors, police officials and any other stakeholders as well.

SADC Protocol on Gender and Development

The SADC protocol comprehensively addresses issues of gender equality. It articulates the responsibility of member States in enacting and enforcing legislation prohibiting all forms of gender based violence. There is a specific reference to the State's role in ensuring that it takes all appropriate measures including developing laws and policies where appropriate to "discourage traditional norms and cultural practises that exacerbate gender based violence"

The SADC protocol also calls on member States to ensure that all citizens have knowledge of the laws, policies and programmes of the State and that they should make services available to victim which include

“effective and responsive policing, prosecutorial, health, social welfare and other services to redress gender based violence”.

There is a clear call in the SADC protocol on gender and development to all States to halve the levels of gender based violence by 2015. South Africa is not in a position to measure this as we so not have a system of gathering the relevant statistics. The country is not able to track trends effectively or develop effective strategies until we have an understanding and analysis of the problem.

State Response to Domestic Violence

The States primary response to domestic violence is the Domestic Violence Act of 1998. The Act is one of the most comprehensive in the world and contains provisions that could serve women well if properly applied. The Act is however gender neutral and allows men and women equal access. This often results in men abusing the Act. Some NGO’s report that men beat their partners, and when the woman tries to defend themselves, then the male partner will apply for a protection order against the woman.

To support the proper implementation of this Act, various mechanisms and initiatives have been put in place. These include:

- The Guideline for the Implementation of the Domestic Violence Act for Magistrates
- National Police Instruction regarding Domestic Violence 1999

These documents provide detailed instructions on how to address issues related to domestic violence as well as ensuring for the proper treatment of survivors. (See attached report).

Research on how these documents are interpreted by the police and the courts as well as interviews with survivors, show that there is a lack of knowledge or a lack of understanding or both with respect to all the guidelines provided. It thus becomes clear that the State does not invest sufficient resources into training of its agents, monitoring implementation of training and it has not developed adequate sanctions for members of the Police Services who do not uphold due diligence standards.

Ministry for Women, Children and People with Disabilities

In the 2009 general election a ministry called the Ministry for Women, Children and People with Disabilities was established. This was an attempt by government to demonstrate its commitment to addressing the concerns of women. It carries overall responsibility for all issues relating to women. Many women working in the gender equality sector were not happy about this development and remain cautious. Some felt that this Ministry infantilizes women, sets them apart as a “special group” rather than acknowledging them as

making up more than 50% of the population and being respected as that and treated as a significant group within the country.

The establishment of this government department has had a significant impact in that some other bodies were dismantled. There was a committee within parliament known as the Joint Monitoring Committee on the Improvement in the Quality of Life and Status of Women which oversaw the workings of Parliament from an equality perspective. It was dismantled when the Women's Ministry came into being. It was very powerful in monitoring parliamentary developments and ensuring that they were aligned with the principles of the CEDAW convention. These have been significant losses to women and the securing of their rights.

The National Council on Gender Based Violence

In 2012, the State established a National Council on Gender Based Violence in response to the Concluding Observations of the CEDAW committee in their January 2011.

This council has impressive terms of reference and has representatives from all government departments and civil society organisations on it. The Chapter Nine institutions established by government will also be represented. The National Council aims to be a coordinating body that reviews the State's responses and seeks mechanisms for strengthening those responses so that gender based violence is comprehensively addressed. It has an impressive terms of reference but there is concern that the council will not be adequately resourced and that it will diminish the work done by the Chapter Nine Institutions such as the Commission on Gender Equality.

Victim Empowerment Programme (VEP)

A key response of the State was the development of the Victim Empowerment Programme which celebrates its 10th anniversary in 2013. This programme is managed within police facilities and mainly administered by independent NGO's. Its effectiveness is dependent upon the training of the staff who administer this programme and on its establishment at all police stations. A review of the VEP was done as part of a monitoring programme in 2011 and some police stations, particularly in rural areas, were found not to have established the Victim Empowerment Programme. The inability of the State to ensure the comprehensive implementation of this programme points to a failure to adhere to due diligence standards which results in women having their rights violated.

Lisa Vetton et al formerly of Tshwaranang Legal Advocacy Centre conducted a study on women seeking help from the police at Acornshoek in Mpumalanga Province. The focus was on police responses to domestic violence cases reported to police stations at Acornshoek. In the table below, we see that police Actions do not follow the national guidelines in most cases and police use their own analyses and thinking to a situation.

Table 1: Resolutions of domestic violence incidents recorded in the OB	
	N=373
SAPS cannot find perpetrator	32.7%
No record of follow up	27.9%
SAPS warned perpetrator	14.5%
Victim did not want to pursue criminal charges	11.3%
Case opened	6.7%
SAPS asks family member of perpetrator to tell perpetrator to behave / fix problem	6.2%
Family/couple say they will resolve the matter	5.9%
SAPS advises victim to obtain a protection order	4.8%
SAPS cannot find victim	4%
SAPS asks family/families/couple to resolve the problem	1.9%
Other	11.5%

Police are often found to be subverting the law by offering a “warning” to a perpetrator or the police attempt to use mediation to resolve family dispute. All of this counts against the survivors of domestic violence and in some cases has caused the survivor irreparable harm and even led to some deaths.

*We called the police when we heard our neighbour’s husband fighting with his wife and threatening to kill her. They came and took him away. Around 2am we woke up to the smell of smoke and when we looked out of the window, our neighbour’s house was on fire. We rushed outside to stop the fire and realised that our neighbour was in the house. Her husband was there. He was shouting that he had promised her would kill her. She died in that fire. The police had warned the man and then released him. He returned to his wife’s home and used petrol to set it on fire causing her death. **A report from an NGO in a rural community.***

In addition to the problems uncovered in this study, the following further illustrates non-compliance of the State with its obligations.

According to the Independent Complaints Directorate (ICD) statistics during 2010, up to 65% of police stations were not compliant with the Domestic Violence Act, which means that they were not providing the necessary support to victims of domestic violence while 53% of domestic violence victims were incorrectly told they were not allowed to lay a charge after being abused and 96% of domestic violence victims were not given information on their rights, such as having the right to apply for a Protection Order when they go to their local police stations.

Responses by courts

One of the major problems that women experience is in dealing with courts in the country. Most domestic violence cases are dealt with by clerks of the court who are responsible for assisting women to obtain protection orders. Many clerks are not well trained, they are overworked and they do not have the patience that women need when making an application through the courts for a protection order. The domestic violence Act is not applied uniformly at all courts and interpretation is often left to the discretion of a clerk or a magistrate. Women report that clerks of the court are sometimes rude and obnoxious. They do not assist women who are illiterate and their applications are rejected because they cannot write down a full account of the abuse which would give the magistrate enough information to grant the application.

In some courts, the waiting period for hearing related to an application for a protection order is anything from 6-9 months and longer in some provinces. This does not provide an applicant with protection and can put them at severe risk of increased violence and even result in their death.

The following case study illustrates the challenges that a woman faces while seeking help from the police and the courts.

Recommendations

As a group, we would make the following recommendations, the most important recommendation is that the State needs to show far greater political will in **Promoting gender equality and combatting discrimination against women generally and by domestic violence specifically.**

The State needs to develop a data base of all cases of domestic violence reported to its agencies and that of civil society groups. A country wide prevalence study is crucial to correctly estimating the size of the problem.

The State needs to develop indicators for addressing domestic violence and for developing prevention strategies across all sectors of society beyond the recording of statistics.

A sustained country-wide prevention strategy is sorely needed. This strategy must include every age group within the broader population and needs a change in the socialization process. It must begin with very young children and be carried through the life span of people.

The State must in particular investigate Acts of violence against women and girls swiftly, thoroughly, impartially and seriously, and ensure that the criminal justice system, in particular the rules of procedure and evidence, works in a way that will encourage women to give evidence and guarantee their protection when prosecuting those who have perpetrated Acts of domestic violence against them, in particular by allowing victims and their representatives to bring civil Actions.

The State must work to combat impunity by integrating the training of all State agents including the police, courts, the judiciary, health professionals, social workers.

The State must take stronger measure to ensure that protection of victims and witnesses.

The State must also work to eliminate stigma and discrimination of women within families and communities thereby facilitating reporting of these crimes against them.

The State needs a stronger strategy to address the eradication of women's poverty and their economic dependence on men.

The State needs to invest more resources to ensure that all women across the country have access to counseling, paralegal and legal services and shelters on a more equitable basis.

Conclusion

This report has used numerous studies and research reports as well as State reports to show the prevalence of domestic violence in South Africa. We have shown the legal framework developed by the State to address domestic violence. We have acknowledged that this framework is extensive and provides very good

legislation, institutional support and other mechanisms and resources as a means of addressing domestic violence. However, we have shown the ineffectiveness of the State's responses by providing information on the growing numbers of women who continue to experience domestic violence including the number of women being killed by their partners because of domestic disputes or through their attempts to flee domestic violence in their lives. We have illustrated the inability of the State to uphold due diligence standards when addressing domestic violence. The comprehensive framework put in place does not extend far enough to ensure protection to survivors of domestic violence or to providing them with the redress for their pain and suffering that they are entitled to under national, regional or international law. It is clear from the research and the reports from the Independent Complaint Directorate that the police responses are inconsistent and poor and are not followed to the full letter of the law. This results in the creation of a culture of impunity which denies women their human rights and fundamental freedoms.

Attached to this report are a number of newspaper reports that provide additional information. We have listed the various national, regional and international instruments which place an obligation on the State to go beyond the provision of a legal framework in addressing domestic violence and to ensure that their responses result in the full protection of women and the securing of their human rights as espoused in all the national, regional and international instruments.

We, as a group of women's rights advocates working at the community level believe that domestic violence has resulted in the gross violation of women's rights in the country and we are seeking an inquiry into how the State can better address this matter.

We urge the Committee on the Elimination of All forms of Discrimination against Women to assist us by conducting an Inquiry through the obligation placed on the State in article 8 of the OP CEDAW into the high levels of domestic Violence in South Africa.

SA 'a leader' in violence against women

2013-02-18 08:52



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Johannesburg - South Africa is certain to come out as "one of the leaders" in a soon-to-be-released study on violence between intimate partners, a researcher said on Monday.

Naeemah Abrahams, a senior researcher at the [Medical Research Council's](#) gender and health unit, told SAfm that the rate of female homicides in South Africa was five times higher than the global rate.

"We are certainly five times the global rate on female homicides overall," she said quoting from a study containing data collected between 1999 and 2009.

"On intimate partners' violence... a global study is going to come out very soon; within the next couple of months... and South Africa is going to be one of the leaders.

"You don't want to be a leader amongst these things, but certainly, we will be," said Abrahams.

Female homicides in South Africa were usually very aggressive murders, she added.

Violence against women occurred across all income groups.

"It is more common amongst poor populations but it's not exclusively among poor populations."

Men who committed violence against women probably grew up in households where the same happened, she said.

- SAPA

MRC says 3 women a day killed in SA

2012-11-07 20:19



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Cape Town - A woman is killed every eight hours in South Africa, says the Medical Research Council (MRC) told MPs.

The number of femicides, a term used to describe the murder of a woman by her intimate partner, had decreased from 3 793 in 1999 to 2 363 in 2009, MRC researchers told Parliament's portfolio committees on health, women, children and people with disabilities.

It was presenting the findings of its latest study into female murders.

Intimate femicide was still the leading cause of murder among females.

The proportion of women killed by their husbands, boyfriends or same-sex partners rose from 50% in 1999 to 58% in 2009.

Just under 43% of women killed were targeted by people with whom they were not intimate.

Different trends emerged when researchers compared the number of perpetrators convicted of intimate femicide, and those found guilty of non-intimate femicide.

MRC specialist scientist Naeema Abrahams said many perpetrators were not even charged and of those charged, the number of people convicted of intimate femicide went up slightly, from 35% to 37%.

"Among the non-intimates, something is happening here where we Actually see a decline in convictions," said Abrahams.

Among the more positive findings was a dramatic drop in the number of women killed with guns.

She attributed this to stricter gun control laws.

"Don't weaken that legislation. Keep it and strengthen it," she told MPs.

Convictions

The number of women killed with sharp objects, such as knives, and those who died as a result of blunt force trauma, had not changed much.

Abrahams said the findings showed there was no evidence that police had improved investigations into crimes against women.

"There are fewer murders, so there must be more policemen in the system... shouldn't they be better at getting better convictions and collecting better data on the history of violence?"

The MRC tried to conduct research on the blood alcohol levels of female murder victims.

The Western Cape was the only province which could provide this data.

"Women are drunker when killed in 2009 for the Western Cape... This tells us a story about alcohol and women's vulnerability," Abrahams said.

She said women killed with guns were sober, but a large proportion of those killed with sharp and blunt objects had high levels of alcohol in their system.

The MRC said evidence from the study showed the work done so far to prevent gender-based violence was insufficient.

Abrahams recommended that similar studies be done every five years to monitor progress made in preventing violence against women and attaining gender equity.

She urged MPs to use the data collected to influence intervention and prevention policies.

Most murdered women 'killed by partners'

2012-08-21 22:18

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Pretoria - Most South African women are killed by their husbands, boyfriends or same sex partners, a Medical Research Council (MRC) study has found.

"In South Africa every one to two women killed are killed by her partner," said MRC gender and health researcher Naeemah Abrahams on Tuesday.

The study, giving comparative figures of 1999 and 2009, indicated an overall decrease in female homicides as well as for intimate female homicides, referred to as femicides.

"Intimate femicide has become the leading cause of female homicide in South Africa," the report said.

The study also showed that rape homicides, where evidence of being raped was present, had proportionately increased.

Abrahams said the decrease in overall figures came as no surprise because police data indicated homicides had decreased in South Africa in last 10 years.

"We expected to see the same trend in female homicides, which make us confident in our data."

However, a comparison of all the figures indicated that intimacy homicides declined less.

Abrahams said rape homicides in South Africa had increased in the event of a non-partner.

"This tells us that we do not do a great job against feminine violence."

'Gun laws saving lives'

She said a general decrease in homicides should have resulted in a decrease in rape homicides as well.

No major changes in convictions in cases of woman being killed had been recorded. The level of convictions was still the same from 1999 to 2009.

Abrahams said the good news in the data related to a significant decrease in firearms used in female homicides in 2009.

She said there was very strong evidence that South Africa's firearm control legislation, implemented in 2000, might have had a positive impact.

"Are we really seeing a decrease in gun violence due to the legislation?" she asked.

The report indicates that the number of woman killed by strangulation, stabbing or blunt force stayed the same.

Abrahams said the study showed that South Africa had to really work at the prevention of gender violence against women and children.

"We should not wait for women or children to be killed. We need to prevent."

In reAction, Gun Free SA chairperson Alan Storey said the study showed that the Firearms Control Act of 2000 had saved more than 800 women's lives a year.

The number of women shot and killed almost halved from 32% in 1999 to 17% in 2009.

"It provides irrefutable evidence that stricter gun laws save lives," said Storey, adding that the Act saved lives by raising the bar for gun ownership.

Woman hacked to death in Mthatha

2012-01-16 10:08

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Mthatha - A woman has been hacked to death, allegedly by her partner, in Ncambedlana, Mthatha, Eastern Cape police said on Monday.

The couple had a quarrel which turned violent at about 22:00 on Sunday, said Lieutenant Colonel Mzukisi Fatyela.

Police arrested the 45-year-old woman's 48-year-old partner on suspicion of her murder.

Fatyela said he would appear in Mthatha Magistrate's Court on Tuesday.

- SAPA

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SA Time: 01 March 2012 04:10:52 PM

A case of intimate femicide?

January 30 2008 at 08:44am

By Kamini Padayachee

A woman office worker in central Durban was shot and killed by a man who then turned the gun on himself and died at the scene on Tuesday.

Shanaz Ebrahim, 32, who worked for an information technology company, was killed by Vernon Jack, 47, who worked in a nearby building in the eThekweni Municipality complex.

Police Inspector Michael Read said at about noon on Tuesday, Jack walked into the offices of Solution One Plus, armed with his licensed firearm, and shot Ebrahim once in the head and then shot himself.

Ebrahim's co-workers called the police. An inquest docket and a murder docket had been opened. The motive for the murder/suicide was not known.

Stunned municipal and other workers watched in disbelief as the bodies of Ebrahim and Jack were wheeled out.

Ebrahim's fellow workers were in a State of shock and trauma, saying they were struggling to cope. Read said they would be sent for counselling.

A municipal worker at the scene said the incident could have been prevented if security at the complex had been better.

"The law says that no person can bring a firearm to work. But no one is checking that. Here at the main gates you can walk in with any weapon.

"There should be a place in the complex where employees, excluding Metro police officers, should keep their weapons," the worker said.

People Opposed to Women Abuse (Powa) spokesperson Carrie Shelper said intimate femicide - when a woman was killed by someone she knew intimately - appeared to be increasing in the country.

"When you look at South African society, we have a highly patriarchal system and there is a backlash against women's rights, and leadership that does not provide a good example of gender equality. Intimate femicide flourishes in this environment," she said.

kamini.padayachee@inl.co.za This article was originally published on page 4 of The Mercury on January 30, 2008

ANCWL: Polygamy oppressive but...

2012-06-29 14:38

on ANCPolicy

Johannesburg - Polygamy oppresses women, but the ANC must accept those people who prActise it, gender commission member Patricia Cheu said on Friday.

"Polygamy in its prActice oppresses women; if you are a women Activist you will not agree with polygamy," she told media on the sidelines of the ANC policy conference in Midrand.

However, society should accept those who do agree with it.

"The ANC, it is a broad organisation, it accepts all ideas, we can't expel them out of the ANC because they support certain issues."

Not isolated to South Africa

She said South Africans must live side-by-side with those choosing polygamy.

"We need to accommodate people with diverse ideas."

But she emphasised polygamy is not isolated to South Africa.

"People must stop raising this issue as a South African issue... it's a worldwide issue, even white women stay in polygamous marriages."

She said polygamy was part of the evolution of society.

"Polygamy is not a South African issue, it is an evolution of society... we should not isolate it as an issue that comes for nowhere; even in Germany it is there, in America it is there, so don't treat it as a South African issue."

President Jacob Zuma prActises polygamy, and currently has four wives.

The gender commission recommended the establishment of an academy to train prostitutes in life skills so they can gain independence.

Gender summit

It called for gender equality in the top six positions on the ANC's national executive committee, and in all structures of the ANC and the private sector.

The commission wanted a gender summit to examine women's rights.

"We had planned with women from the alliance... to unpack this [gender] issue, but... in the commission they said no," ANC Women's League treasurer general Hlengiwe Mkhize said.

"What we need... is a gender summit, which will look at power relations in all respects, so that it is not only women who are talking about these issues..."

Friday was the last day of the four-day summit to discuss policies to be adopted at the ANC's national conference in Mangaung in December.

An unequal society

Aug 26 2011 00:00

Emotional abuse, beatings, rape and murder -- 50% of women have experienced some type of gender-based violence in their lives, and 75% of men have admitted to perpetrating such incidents. The findings of this Gender Links study (yet to be published), with a sample of 1 500 people, indicates that this violence is ultimately a question of power.

"In a lot of men's minds there is nothing wrong with that behaviour," says Kubi Rama, deputy director of Gender Links. "It also shows that views articulated in the public sphere do not correspond with what happens at home. There is a huge contradiction."

Most violence is domestic and emotional, not sexual, but research has never before documented this. "I don't know if there's been progress as there has never been any data to measure it against," Rama said. Sexual violence stats are the best documented but are considered unreliable due to under-reportage.

A recent report (Criminal Injustice: Violence Against Women in South Africa) said violence against women has reached epidemic proportions. The exAct prevalence of it in South Africa is unknown as police statistics are fraught with problems such as under-reporting, corruption and codification of crimes. Even so these statistics for reported rape show 69 117 in 2004/5, 68 076 in 2005/6, 65 201 in 2006/7, 63 818 in 2007/8 and 71 500 in 2008/9.

Carrie Shelver, manager of the gender-based violence programme at the Centre for the Study of Violence and Reconciliation, said it is not a simple matter of judging the prevalence of gender-based violence relative to reported incidents. "Increased reporting could mean more incidents, or it could mean there is more awareness."

In the past government has made moves to protect and empower women with legislation like the Choice of Termination of Pregnancy Act as well as the Domestic Violence Act. The latter has existed for over 10 years, but Mbuyiselo Botha of Sonke Gender Justice said police are still not equipped to deal with victims of domestic violence.

"It is a beautiful piece of legislation, but 10 years on not many women have found joy with it," he said. "Police just don't have a real grasp of the Act and the spirit it is written in. And they have no idea how to implement it."

Botha said the justice system has failed women: dockets disappear and Statements are incorrectly taken. Women are often told by officials not to lay charges and to deal with such problems within their own homes. "Men can literally get away with murder and they know there are no consequences."

Nonhlanhla Mokwena, executive director at People Opposing Women Abuse (POWA), said it's not just about domestic violence. Women are still struggling for gender equality in all sectors of society such as in the courts and even religious organisations.

A lot of local churches still enforce bodily oppression on women and treat them like objects, she said. "Patriarchy is not just practiced by men but by other women entrenching the same stereotypes."

If looking to gauge a woman's standing in modern day society, Mokwena said one need look no further than the recent spate of "corrective" rapes and murders of lesbians in South Africa. Four corrective rapes between March and May this year have called attention to the crisis, namely the attacks on Nokuthula Radebe, Noxolo Nogwaza, Nqobile Khumalo and an unnamed 13-year-old girl.

More than 30 lesbians have been killed in corrective rape cases in South Africa since 1998, yet only one case has resulted in conviction. Most alarming, Mokwena said, is the violent manner in which these hate crimes are conducted with methods that include repeated stabbing and brutally bashing the victims heads against rocks.

A 2008 study conducted by LGBTI (Lesbian, Gay, Bisexual, Transgendered and Intersex) group, the Triangle Project, found that 86% of black lesbian women in Western Cape say they live in fear of sexual assault. The organisation has said it deals with up to 10 new cases of corrective rape per week.

In May this year, government set up a task force to deal with combating corrective rape and murder. The proposed strategies include the amendment of the Sexual Offences Act to account for sexual orientation as an aggravating factor, which should lead to heavier sentences. But the economic recession brought with it a lull in gender Activism.

Mokwena said that since the crash, civil society must compete for funding and as a result there is no strong movement at present. But she insists Activists will always fight for the rights of women -- "even if we help five or 10 women in a year then it is good enough". "I refuse to believe that we can't make inroads," Rama said.

There is a need to rethink the campaign strategy. "It's about recasting how we do gender-based advocacy work. HIV campaigns have always been about prevention and we need to do the same."

Rama said localised initiatives are the key. ("A knock on the door from a neighbour could stop the abuse"). It's about collective responsibility. Botha said civil society is in need of new consciousness - something which is already developing behind the scenes. "I can see it coming from the grass roots," he says.

The Muslim Marriage Bill

Muslim marriages are not legally recognised and therefore not regulated in South Africa affording Muslim men the opportunity to divorce their wives and even leave them destitute. The proposed Muslim Marriage Bill, now being redrafted, will offer more legislative protection for women despite a handful of detractors in the Islamic community.

Mohammad Groenewald, deputy president of the Muslim Youth Movement said he views the bill as a positive move. "There are more negative impacts for women who bare the brunt of issues. Currently -- there is no protection for Muslim women. Most religious organisations and judicial bodies, he said, agree with the principle of the bill although there are finer details that need to be smoothed out.

Kamraj Anirudhra, parliamentary officer at the Commission for Gender Equality, said very few people don't support the bill, but for those who don't the reasons are obvious: women are now

permitted to look after their own finances and acquire assets. It gives them an advantage or an equality they never had before -- and some people are simply uncomfortable with it and not used to the idea. The bill attempts to give protection and the right to human dignity -- but, ultimately, no law can regulate the dynamic within the home, Anirudhra said.

A global disease

Around the world, at least one in every three women has been beaten, coerced into sex or otherwise abused during her lifetime. Most often, the abuser is a member of her own family. Domestic violence is the leading cause of injury to women -- more than car accidents, muggings, and rapes combined.

Studies suggest that up to 10 million children witness some form of domestic violence annually. Nearly one in five teenage girls who have been in a relationship said a boyfriend threatened violence or self-harm if presented with a breakup. Domestic violence victims lose nearly 8 million days of paid work per year in the US alone -- the equivalent of 32,000 full-time jobs. Men who as children witnessed their parents' domestic violence were twice as likely to abuse their own wives than sons of nonviolent parents.

The most common Act of violence against women is being slapped -- an experience reported by 9% of women in Japan and 52% in provincial Peru. Rates of sexual abuse also vary greatly around the world -- with partner rape being reported by 6% of women from Serbia and Montenegro, 46% of women from provincial Bangladesh, and 59% of women in Ethiopia. In Zimbabwe, domestic violence accounts for more than 60% of murder cases that go through the high court in Harare. -- Sources: feminist.com & domesticviolencestatistics.org

Source: Mail & Guardian Online

Web Address: <http://mg.co.za/article/2011-08-26-an-unequal-society>

Cop jailed for killing girlfriend

2013-02-18 11:40



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Johannesburg - A 32-year-old police constable has been sentenced to 15 years imprisonment for killing his girlfriend in front of her children, the Independent Police Investigative Directorate (Ipid) said on Monday.

Spokesperson Moses Dlamini said Constable Cingakufani Mbiza was also declared unfit to own or possess a firearm.

Mbiza shot dead his girlfriend, Cinna Ncada, 23, in the head on May 28 last year. She was shot dead in front of her young children, at the time aged 3 and 5 years respectively.

The shooting happened in the street at the corner of Vasco da Gama and 12th Avenue in Marlboro. The policeman then fled the scene.

The Ipid took over the case and Mbiza was arrested while at work at the Johannesburg Central police station.

The post mortem found the cause of death to be a gunshot wound to the head.

His 5-year-old son testified against him with the assistance of a social worker on Wednesday last week, Dlamini said.

"Other witnesses also testified against the accused. The accused was found guilty of murder and sentenced to 15 years imprisonment.

Mbiza was sentenced on Thursday last week.

- SAPA

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Man 'drives into estranged wife'

2012-01-23 09:24

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Cape Town - Police are looking for a 26-year-old Zimbabwean who is on the run after allegedly killing his wife.

Alexio Mukana is believed to have killed Rejoice Giyane, 24, by hitting her with a car, reported the [Weekend Argus](#).

The incident happened in Bellville on Wednesday afternoon. Giyane had finished work and was on her way home when her estranged husband approached her and asked her to get into his car.

She apparently refused and walked away. Mukanda then drove towards her, knocked her over and hit a tree.

He ran away and police believe he may be on his way to Zimbabwe.

Giyane was rushed to hospital but died of her injuries.

Police have alerted border officials to look out for Mukanda.

Man wipes out family after fight

2012-01-18 14:20

Mahikeng - A Brits father has murdered his two young sons and their mother before killing himself, North West police said on Wednesday.

The family was discovered by the man's brother, who called the police.

Captain Tselane Nkala said three bodies were found on the bed and one on the floor of the family's home in the Newtown section of Bapong.

It was thought the murders took place on Monday morning after a quarrel between the man and his common-law wife.

Police found the bodies in a pool of blood. The children, aged 12 and 3, and the 30-year-old mother had been stabbed. Their father had committed suicide by drinking poison.

Nkala said witnesses told police the couple had been arguing about their relationship. The woman wanted to leave with her two boys.

"Why a man has to take the lives of innocent children and their mother is impossible to understand," Nkala said.

"If you are unhappy, don't kill children and a woman and turn your unhappiness into a terrible thing."

The bodies had been taken to the Brits State mortuary.

Police are continuing their investigation.

- SAPA

Girls, 14, forced to marry in South Africa

By Joanne - Posted on 16 February 2010

Girls as young as 14 are still being forced into marriage in some rural communities in South Africa, despite a campaign to end the practice.

Hundreds of teenagers every year fall victim to what village elders defend as a "tribal tradition", most of them in the Eastern Cape.

Girls who had escaped the marriages spoke to Sky News from a secret refuge in the province.

Some said that their own families had arranged for them to be abducted and married off to men they didn't know.

"I cried to my mother for help when the man came for me, but she just told me she didn't want a spinster in her house," one 15-year-old said.

Another teenager said she had been repeatedly raped and beaten by her "husband" in the eight months before she managed to escape.

"It was a very painful experience for me, in the first few days I didn't even know his name," she said.

The girls did not want to be identified for fear of being tracked down by their parents and forced to return to the men they left.

All of the teenagers we spoke to had been exchanged by their parents for livestock or grain.

The refuge where they are staying was set up by Zoleka Capa, who is using her status as the first female Mayor in the area to try to change the traditions of her own people.

"It is totally unacceptable," Ms Capa said. "Forced marriage has no place in a democratic State. It is a violation of rights."

Her campaign has divided the local community where the word of the male elders still holds sway.

"The women tell us when their daughters begin their menstrual cycle," village leader Thobile Ngcwangu said.

"Then the girls are adults not children and they should be married, even to a 60-year-old man," he said.

He declared his own wife - who was forced to marry him two decades ago at the age of 17 - as extremely satisfied with the arrangement.

Sitting next to him, she nodded her agreement.

Some communities have begun to reject the practice, but they have replaced it with a new tradition that is almost as disturbing.

In one village, just a few miles from the place where Nelson Mandela was born, we were invited to attend a special service at the church.

The tiny building was crowded with young girls who were invited to approach the altar to be presented with certificates of their virginity.

The local traditional healer physically inspects all unmarried females above the age of 12 every month.

"This is a good way to ensure they are safe and pure," the healer, Nongenile Nyoka, said.

The virginity testing is supported by the local council which sees it as a step forward in the campaign against forced marriage.

Sky News

Raped wife wins landmark case

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Pretoria - In a landmark case in the Krugersdorp Magistrate's Court, a man has been sentenced to 12 years in jail for physically abusing and raping his wife over a period of 12 years.

The case of Annelise Kriek, 47, marks the first reported case of rape in a marriage since the new Domestic Violence Act of 1996, **The Times** reported.

Kriek fought a lengthy battle to stop the abuse at the hands of Frederik Christiaan Bossert, 48. She gave permission for her name to be used.

She initially laid three rape charges against her husband and also got a restraining order against him.

The court heard how the abuse started after only one year of marriage. Her husband allegedly assaulted her, tried to drown and strangle her, and repeatedly raped her.

In one instance he twisted her nose after she came out of hospital following a nose operation.

Kriek Stated that she was assaulted almost every day.

On sentencing, the magistrate said he was horrified by Bossert's Actions.

Kriek laid the first criminal charges in 2004 and had to wait seven years for justice to be served. But she said it was worth it - and it was a message to other women afraid to leave abusive relationships.

Bossert plans to appeal his conviction and sentence.



Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
14 May 2021

Original: English
English, French and Spanish only

Committee on the Elimination of Discrimination against Women

Inquiry concerning South Africa conducted under article 8 of the Optional Protocol to the Convention

Report of the Committee***

I. Introduction

1. On 28 February 2013, the Committee on the Elimination of Discrimination against Women received information from 11 organizations¹ pursuant to article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women alleging that the failure of South Africa to prevent and protect women and girls from domestic violence constitutes grave and systematic violations of rights under the Convention.
2. The State party ratified the Convention on 15 December 1995 and acceded to the Optional Protocol on 18 October 2005.

II. Submission by the sources of information

3. The sources submit that the high levels of domestic violence in the State party and its failure to comply with its due diligence obligation to protect women from such violence amount to grave or systematic violations of the Convention. They allege that the situation is exacerbated by:

(a) The prevalence of harmful practices such as *ukuthwala* (i.e., elopement leading to child and forced marriages) and polygamy;

* Adopted by the Committee at its seventy-seventh session (26 October-5 November 2020).

** The present report was made public following the expiry of the six-month period provided for in article 8 (4) of the Optional Protocol to the Convention.

¹ Women's Legal Centre, Nisaa Institute for Women's Development, New Women's Movement, Ukuthula Advice Centre, Tlhoafalo Advice Centre, Tshwaranang Legal Advocacy Centre, Diocesan Social Responsibility Project, Community Advice Bureau, Free State Network on Violence against Women, Masimanyane Women's Support Centre and Mosaic Training, Service and Healing Centre for Women.



- (b) Persistent stereotypes that legitimize domestic violence and discourage women from reporting such violence;
- (c) The lack of statistical data and research;
- (d) The lack of public awareness-raising and capacity-building for law enforcement agencies and health and social workers.

III. Procedural history

4. At its fifty-sixth session, in 2013, the Committee considered the information received from the sources to be reliable and indicative of grave or systematic violations. It invited the State party to submit observations. At its fifty-ninth session, in 2014, the Committee decided to conduct an inquiry and requested the State party's consent to a visit to its territory.

5. On 23 September 2015, the State party submitted its observations. It acknowledged the high prevalence of domestic violence and its devastating impact on survivors and their families. The elimination and prevention of gender-based violence was a national priority. It had adopted a robust legislative framework and policies and mechanisms to combat domestic violence.

6. On 17 July 2019, the State party agreed to a country visit, which was conducted from 9 to 20 September 2019 by the designated members Hilary Gbedemah and Esther Eghobamien-Mshelia, and two Human Rights Officers.

7. In Pretoria (Gauteng Province), the designated members met with the Deputy Minister for Women, Youth and Persons with Disabilities, the Deputy Minister for International Relations and Cooperation and representatives of the following departments: Women, Youth and Persons with Disabilities; Social Development; Justice; Labour and Employment; Rural Development and Land Reform; Basic Education; Higher Education; Human Settlements; Cooperative Governance and Traditional Affairs; Planning, Monitoring and Evaluation; Home Affairs; and Correctional Services. They also met with representatives of the National Prosecuting Authority, the South African Police Service and Statistics South Africa.

8. In Johannesburg (Gauteng Province), the members met with the Chairperson and Commissioners of the Commission on Gender Equality, the Deputy Chairperson of the South African Human Rights Commission and the Chairperson, Deputy Chairperson and Commissioners of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.

9. In Cape Town (Western Cape Province), the members met with representatives of the Office of the Premier and the following provincial departments: Environmental Affairs and Development Planning; Community Safety; Human Settlements; Social Development; Agriculture; Health; Cultural Affairs and Sport; Education; Economic Development; Local Government; Transport; and Rural Development. They also met with representatives of the National Prosecuting Authority and the Treasury of Western Cape, visited a Thuthuzela Care Centre at Karl Bremer Hospital in Bellville and police stations (also referred to as "community service centres") in Belville and Stellenbosch.

10. In East London (Eastern Cape Province), Ms. Eghobamien-Mshelia met with representatives of the following provincial authorities: the Office of the Premier; the Department of Social Development; and the Department of Sport, Recreation, Arts and Culture. She also met with a representative of the National Prosecuting Authority. She visited the Thuthuzela Care Centre at Cecilia Makiwane Hospital and a police station in Mdantsane.

11. In Durban (KwaZulu-Natal Province), Ms. Gbedemah met with representatives of the following provincial authorities: the Office of the Premier; the Department of Correctional Services; and the Department of Higher Education. She also met with representatives of the National Prosecuting Authority, the South African Police Service and Ugu District Municipality. She visited the Thuthuzela Care Centre at Prince Mshiyeni Memorial Hospital and the Magistrates' Court in Umlazi.

12. The members visited shelters and safe houses, interviewed survivors of domestic violence and met with civil society and academics.

13. The Committee expresses its appreciation for the cooperation extended by the State party. It thanks the survivors of domestic violence interviewed for their courageous testimonies.

IV. Scope of the report

14. The Committee notes that women and girls in South Africa face multiple forms of gender-based violence. However, the scope of the present report is limited to domestic violence as defined in relevant international and regional human rights instruments² and national law.

V. Legal framework on domestic violence in South Africa

15. The Constitution of South Africa of 1996 protects the right to freedom and security of the person, including “the right ... to be free from all forms of violence from either public or private sources” (art. 12 (1) (c)) and “the right to bodily and psychological integrity, which includes the right ... to security in and control over their body” (art. 12 (2) (b)).

16. In its preamble, the Domestic Violence Act (No. 116 of 1998) refers to the obligation under the Convention to end violence against women. Section 1 broadly defines domestic violence. The Act sets out a civil procedure for the complainant to obtain a protection order from a court to prohibit the respondent from committing any act of domestic violence (sect. 7). The court must also authorize the issuance of an arrest warrant against the respondent in cases of non-compliance (sect. 8 (1)). The Act requires members of the South African Police Service to render assistance to the complainant (sect. 2). National Instruction 7/1999 regarding domestic violence directs the Police Service to refer complainants to support services; assist them in finding suitable shelter and obtaining medical treatment; inform them about the remedies available under the Domestic Violence Act; serve the protection order on the respondent; arrest contraveners of protection orders; accompany complainants to collect personal property; and keep a record of all domestic violence incidents. Failure by the Police Service to comply with these duties constitutes misconduct that entails disciplinary proceedings.

² See the broader definition of “violence against women” in article 1 (j) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Domestic violence is specifically defined in article 3 (b) of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence as “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim”.

17. There is no specific offence of domestic violence. Acts constituting domestic violence are prohibited under general criminal law provisions on assault, harassment, rape and sexual assault.³

18. Article 211 of the Constitution of 1996 recognizes the applicability of customary law, subject to the Constitution and specific legislation.

VI. Findings of fact

A. Current political and socioeconomic context

19. Among the perceived reasons for gender-based violence in South Africa are the country's history of colonialism and apartheid, which undermined local family and household systems, strengthened patriarchal structures and was organized through a system of legitimated racist violence and inequality. Its legacies of generalized violence within all communities, criminal violence, poverty, unemployment, women's economic dependence, drug use, alcoholism and the impact of HIV/AIDS all contribute to the extremely high levels of gender-based violence.

20. On 1 August 2018, women across the State party participated in a shutdown march, demanding State action to curb gender-based violence. In November 2018, at a national summit on gender-based violence and femicide, the President of South Africa and civil society called for a national strategic plan. An interim steering committee was established in April 2019 to develop the plan.

21. Shortly before the visit of the designated members, a postal worker raped and murdered a 19-year-old female student in a post office in Cape Town. This emblematic case triggered a second wave of nationwide protests against gender-based violence. At the time of the visit, Parliament held an emergency session to discuss victim services and the criminal justice system.

22. Non-governmental organizations (NGOs) observed that the political system condones gender-based violence, recalling the acquittal of the former President, Jacob Zuma, of rape charges in 2006. A diagnostic review conducted by KPMG International in 2016 revealed that there was a lack of political leadership and oversight needed to hold the Government accountable for eliminating gender-based violence.

23. The Committee notes the publication in 2020 of the National Strategic Plan on Gender-based Violence and Femicide. In April 2020, the President announced the establishment of the Gender-based Violence and Femicide Council. Parliament approved and directed all departments to introduce gender-responsive budgeting, but did not require them to provide commensurate budgetary benchmarks or dedicated resources.

B. Gender stereotypes and sociocultural context of domestic violence

24. The Deputy Minister for Women, Youth and Persons with Disabilities explained that the high levels of gender-based violence are a result of the combination of traditional patriarchal stereotypes and oppression based on gender, race, ethnicity, region and class during colonialism and apartheid.

³ See the Criminal Procedure Act of 1977, as amended; the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007; and the Protection from Harassment Act of 2011.

25. From an early age, children learn about the binary roles of women and men. Fathers send their sons to initiation schools to “become men”, while girls in rural areas often undergo so-called virginity testing and drop out of school to get married. In a patriarchal society where women are considered the property of their husbands, domestic violence is socially accepted. Religious organizations often consider it a private matter and fear that addressing it could jeopardize family cohesion.

C. Prevalence, forms and circumstances of domestic violence

26. Statistics South Africa has not conducted dedicated surveys on domestic violence. The State party relies on administrative data collected by the South African Police Service, data received from Thuthuzela Care Centres and shelters, and academic research. According to the National Prosecuting Authority, it is difficult to collect data on domestic violence in the absence of a specific offence. Police statistics capture only registered cases, not the high levels of underreporting.

27. The Department of Justice reported that 22,211 out of 143,824 applications for protection orders were granted in 2018/19. Evidence indicates that the figures for domestic violence, including femicide, are alarmingly high.

28. Many victims interviewed at shelters had experienced violence or abandonment by their mothers, and several had lost one or both parents. Many victims returned to perpetrators because they depended on them economically or did not want their children to grow up fatherless. Victims used drugs to cope with the violence or had attempted to commit suicide. Even after leaving an abusive relationship, many continued to suffer from depression, trauma and anxiety.

29. NGOs stated that domestic violence increasingly affected children. Several victims reported that their children suffered flashbacks or began taking drugs because of the traumatic experiences of violence committed against themselves, their mothers or their siblings. NGOs referred to high levels of desensitization in schools, where many girls consider domestic violence normal.

30. Perpetrators often have low self-esteem or had experienced violence during childhood. Many victims stated that their violent partners were jealous, possessive, were abusing alcohol or drugs or were gambling.

31. Victims’ accounts of psychological violence suffered included instances of partners isolating them from their families and friends, abandoning them and their children, belittling them, accusing them of adultery, threatening to commit suicide if they left and being excessively controlling or locking them up.

32. Several victims experienced economic violence, as their partners deprived them of food, money, access to education or employment, or did not pay alimony or child maintenance following divorce. NGOs stressed that women’s limited access to resources exposed them to domestic violence.

33. Many victims described acts of physical violence perpetrated on them by their partners, who often had sadistic tendencies, or by family members, including battery with objects, kicks and inflicted burns. Others described how their intimate partners, male family members or male friends had raped them, including during childhood. The designated members interviewed the family members of women and girls murdered by their partners or fathers, respectively. They spoke to a female police officer in Cape Town whose alcoholic ex-husband, also a police officer, had killed their three children one night after a verbal fight with her. Just before the murder, she had withdrawn a temporary protection order against him.

D. Harmful practices and domestic violence

1. Abduction of girls and women for marriage (*ukuthwala*)

34. The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities explained that *ukuthwala* is the consensual elopement of a bride leading to negotiations for a customary marriage. NGOs criticized *ukuthwala* as often resulting in forced marriage. In the *Jezile* case,⁴ the High Court of South Africa upheld the conviction of a 28-year-old man who had abducted and raped a 14-year-old girl following *ukuthwala* negotiations with her uncle. It held that the defendant could not rely on *ukuthwala* as a legitimate defence.

35. The Commission did not answer a designated member's question as to how the State party would ensure that *ukuthwala* took place only with the woman's free, prior and informed consent and did not result in child marriage.

2. Child and forced marriages

36. The Recognition of Customary Marriages Act of 1998 recognizes customary marriages entered into before the commencement of the Act (sect. 2). Those entered into thereafter are valid if both prospective spouses are above the age of 18 years and consent to be married to each other under customary law (sect. 3 (1)). If either of them is a minor, both parents or a legal guardian must consent to the marriage (sect. 3 (3) (a)). The Marriage Act of 1961 provides that no boy under the age of 18 years and no girl under the age of 16 years shall be capable of contracting marriage except with the written permission of the Minister for Home Affairs. The Children's Act of 2005 prohibits the marriage or engagement of a child below the above-mentioned minimum age or a child above that age without the child's consent (sect. 12 (2)).

37. NGOs submitted that the Government is reluctant to challenge customary marriages to avoid conflict with the powerful National House of Traditional Leaders. Child marriage, often involving rape, is prevalent in rural areas, where poor families receive bride prices (*lobolo*).

3. Polygamy

38. The Recognition of Customary Marriages Act recognizes polygamous customary marriages entered into before the commencement of the Act. For those entered into thereafter to be valid, the applicant's existing spouse or spouses must consent to the marriage (sects. 2 (4) and 3 (1) (a) (ii)). The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities submitted that polygamy helps to prevent children from being born out of wedlock without knowing their father and provides women with economic protection.

4. Role of traditional and religious leaders

39. Traditional leaders are not adequately sensitized to deal with victims of domestic violence. The information sources submitted that traditional leaders often return girls who report harmful practices to their families.

40. Traditional leaders and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities engage in awareness-raising programmes for rural communities on domestic violence. According to the

⁴ High Court of South Africa, *Nyumeleni Jezile v. the State and Others*, Case No. A 127/2014, Judgment, 23 March 2015.

South African Human Rights Commission and NGOs, traditional leaders often justify *ukuthwala* and other harmful practices as consensual cultural practices.

41. Victims described a culture of silence within their religious communities. One said that the police told her that her abuser, an archbishop, had “merely attempted” to rape her because he had not ejaculated in her. Despite pressure to remain silent to protect the Anglican Church, she filed a complaint. Two Muslim victims of physical and psychological violence said that they felt trapped, as they faced barriers in seeking divorce and did not want to embarrass their families. Muslim religious counsellors had advised them to “make peace” with their abusive husbands.

E. Awareness-raising and prevention

42. Institutional weaknesses, limited resources, a lack of understanding of the root causes of domestic violence and a lack of coordination limit the effectiveness of gender-based violence prevention programmes. Departmental gender focal points and municipal gender units are underresourced and overburdened with other tasks.

43. The Commission for Gender Equality, established under chapter 9 of the Constitution to monitor government compliance with gender equality legislation, lacks the authority to hold it accountable.

44. The Department of Social Development launched a “365 days of activism” campaign against gender-based violence and femicide, and conducts awareness programmes targeting men that are focused on male roles in breaking cycles of violence. At the provincial level, the Office of the Premier coordinates the implementation of programmes on gender-based violence, with minimal resources. KwaZulu-Natal Province launched an anti-rape campaign, in cooperation with national television, championed by the Premier and Zulu queens.

45. The Department of Justice conducted awareness sessions and dialogues on domestic violence and femicide with 850 participants in 2018/19. It also developed a risk assessment tool, displayed at police stations and courts, to make victims aware of why they should leave abusive relationships. The National Prosecuting Authority ran several community projects on gender-based violence. The previous Administration had initiated public truth and reconciliation hearings on gender-based violence in the provinces.

46. The Commission for Gender Equality and NGOs also raise awareness about gender-based violence. However, they expressed regret that, despite the efforts made, violent and patriarchal attitudes have not changed.

F. Role of the police and the judiciary in investigating, prosecuting and punishing cases of domestic violence

1. South African Police Service

47. According to the sources of information, police officers lack adequate training with regard to combating gender-based violence. The mandatory five-day training courses on domestic violence do not give them the capacity to apply the Domestic Violence Act and the Sexual Offences Act, conduct gender-sensitive interrogations or collect forensic evidence.

48. The officers of the South African Police Service are permanently appointed to one police station and often reside in its district. As community members, they face pressure to perform favours and are susceptible to corruption. They have reportedly informed perpetrators about the locations of safe houses.

49. The performance of the officers is evaluated using perpetrator detection, conviction and crime resolution rates. The Department of Women, Youth and Persons with Disabilities noted the absence of gender-based violence indicators in performance evaluation plans. NGOs reported that the South African Police Service is often reluctant to register cases, as they might not be resolved. A magistrate reported that police officers often discourage victims from making a criminal complaint and send them to court to apply for a protection order. They often fail to arrest perpetrators, release them without informing victims, delay investigations or seek to settle cases to avoid investigation. Cases are sometimes closed because dockets disappear.

50. Reportedly, officers are frequently influenced by stereotypes, consider domestic violence a private matter and return victims to the perpetrator or mock them. Several victims stated that the police had refused to act on their complaints. A victim of domestic violence living with HIV stated that she had slept at the Kliptown police station, outside of Soweto, for one week before her complaint was registered. The officers mocked her and took no action.

51. NGOs reported that police frequently fail to refer victims to service providers. Rape victims are sometimes not referred to medical examination or wait hours before police bring them to a Thuthuzela Care Centre.

52. NGOs explained that police officers regularly experience trauma, have no space for debriefing, suffer from depression, abuse their partners and sometimes commit suicide. The Department of Social Development stated that the officers are reluctant to seek psychological counselling because of stigmatization.

53. In a few cases, victims stated that the police had helped them. A resident of a safe house in Durban, whose husband had hit her with a chair and burned down her family's house, said that officers at the Chatsworth police station had arrested him and encouraged her to bring a complaint.

2. National Prosecuting Authority

54. From April 2012 to March 2019, the National Prosecuting Authority provided 25 training sessions on domestic violence, attended by 411 prosecutors, and 45 sessions on sexual violence, attended by 822 prosecutors. To withdraw a complaint, a prosecutor must ensure that the victim makes an informed decision. However, in situations in which the victim decides to withdraw the complaint, the law does not allow for ex officio prosecution when there is no evidence beyond the victim's testimony. NGOs cautioned that a "no withdrawal" policy could put victims at risk.

3. Courts

55. The Domestic Violence Act established domestic violence courts at the district court level to issue protection orders. Under the Sexual Offences Act, the Department of Justice designated 74 sexual offences courts at the regional court level in 2013. District and regional courts are co-located with magistrates' courts.

56. According to the National Prosecuting Authority, there has been a stark rise in conviction rates for sexual offences, from 48 to 74 per cent, since 2000, attributable to the sexual offences courts and 55 Thuthuzela Care Centres, which are one-stop facilities that refer sexual offences (65 per cent of them rape) for investigation. Academics noted that the conviction rate refers only to the 2,225 finalized court cases of the 34,558 cases reported to Thuthuzela Care Centres in 2018/19.

4. Department of Correctional Services

57. Although the Department of Correctional Services is mandated to rehabilitate offenders, it has no resources for rehabilitation programmes for gender-based violence offenders.

G. Access to remedies, protection and rehabilitation for victims/survivors of domestic violence

1. Limited access to justice

58. Victims of domestic violence face numerous barriers to access to justice, including legal illiteracy, transportation costs, limited access to legal aid and forensic evidence, and parallel justice systems that prioritize mediation. Victims from poor communities have limited access to the Internet and public transport.

59. Unlike accused persons, victims without sufficient means do not qualify for legal aid unless the perpetrator has legal representation. The South African Human Rights Commission stressed the need for a legal aid system for victims. Free legal assistance is provided by paralegals at shelters and safe houses, who refer cases to legal aid clinics.

60. When victims apply for a protection order, the magistrate can, in accordance with section 5 of the Domestic Violence Act, dismiss the application, issue an interim protection order or serve notice to the respondent to show why an order should not be issued. Except in cases of dismissal, a return date is fixed when both parties must appear. Many victims fail to appear because they fear confrontation with or retaliation by the respondent, or do not understand that the temporary protection order will be set aside and that a final protection order, which is valid for life, cannot be issued unless the victim is present. NGOs reported cases where victims were gang-raped, locked up or received death threats so that they would not attend the court hearing. Most victims seek a warning against the perpetrator rather than obtaining a permanent order or charging him.

61. NGOs reported that victims are not assisted outside of court hours. They are frequently not referred to support services and are sent back to the perpetrator. Victims must stand in line for hours, pay for transport and food and take a day off from work. Application forms are difficult to complete. Court clerks are sometimes absent or lack empathy and summarize applications cursorily. One victim said: "For the clerk, writing a protection order is just a job, but for the complainant it is her life." Owing to heavy caseloads and scarce resources, magistrates sometimes informally refer cases to religious organizations or traditional courts for mediation.

62. Victims informed the designated members that perpetrators apply for protection orders on false grounds to discredit or intimidate the victim.

63. According to the National Prosecuting Authority, the content of a protection order can put a victim at risk, for example when it merely orders the respondent to sleep in another room. Most protection orders do not prohibit further acts of domestic violence. Victims reported having been revictimized after returning home with a protection order, and stressed the need to confiscate firearms from respondents. Many victims are unaware that they must show imminent harm for an eviction order to be issued. Police stations often have no vehicle available with which to serve a protection order.

64. The Department of Justice stressed the difficulties in monitoring protection orders as civil actions. The police can intervene only in cases of a breach of a protection order – a criminal offence. Victims frequently fail to report recurring

violence or to ask neighbours to alert the police. Officers need training in screening criminal records, detecting signs of recurring violence and assessing imminent danger in order to arrest a respondent. NGOs and victims criticized the lenient sentences for breaches of orders.

65. Victims of sexual violence can file a criminal complaint at a police station or a Thuthuzela Care Centre. The designated members visited a Thuthuzela Care Centre in East London, where survivors could not gain access to health services before registering a complaint with the South African Police Service, which had a limited presence (weekdays only) at the Centre. Although the Centres have forensic units, there is a shortage of buccal sample kits for DNA testing. The Centres are concentrated in urban areas. In rural areas, any hospital can perform a forensic examination. To have a report on a medico-legal examination (“J88 form”) completed by a health-care practitioner, victims often need to spend a day at a local day hospital, as forensic examinations are not fast-tracked. The Police Service lacks vehicles to convey victims to a Centre or to hospital. Obtaining an examination at a mental health forensic facility can take months.

66. Another barrier is the long delays in court proceedings. Courts frequently adjourn hearings and change magistrates or the social worker assisting the victim. Court files sometimes have different case numbers relating to the same case. In the absence of a centralized electronic case management system, consolidating them takes time.

67. The South African Human Rights Commission noted that judges and prosecutors require training in relation to rape and gender-based violence, as victims are often subjected to retraumatizing cross-examinations or victim blaming, for example having to answer questions about what they were wearing at the time of the rape. NGOs reported that law enforcement officials allow victims to withdraw their complaints and label them as “regulars” when they come back, which can result in a victim’s murder or suicide. A sexual offences court magistrate confirmed gender bias among judges without specialized training.

68. NGOs submitted that sentences in domestic violence cases are lenient. Victims often plead that their abusive partner not be sentenced so that he can keep his job. The National Prosecuting Authority stressed the need to harmonize the maximum sentence imposed by district courts (three years) with the maximum penalty for offences in domestic violence cases (five years).

69. According to NGOs, the majority of victims do not report domestic violence or withdraw complaints because of shame, self-blame, family or community pressure, economic dependence, mistrust of the police and judiciary, or fear for their children or of retaliation and stigmatization. Sometimes families settle cases financially. Some victims confirmed that they did not file a complaint or apply for a protection order because of family pressure. NGOs submitted that rape is not taken seriously enough in traditional communities, where mothers often prevent their daughters from filing complaints. The National Prosecuting Authority was of the opinion that traditional leaders should do more to raise awareness about gender-based violence and destigmatize victims. While some victims said that it was their own decision to drop their case, many said that the perpetrator had intimidated them. Shelter directors noted that perpetrators are often set free or released on bail and retaliate against the complainant. Activists for lesbian, bisexual, transgender and intersex women noted a high risk of secondary victimization for transgender complainants at police stations and courts.

70. NGOs stated that victim-friendly rooms at police stations are often dilapidated or used by officers to sleep or have sex. In Western Cape Province, 18 of 151 police stations have victim-friendly facilities run by volunteers. The designated members

visited a well-equipped victim-friendly facility at the Belville police station and a basic victim-friendly room at the Stellenbosch police station. NGOs submitted that volunteers often fail to comply with checklists and are too complicit with police officers. The designated members met two volunteers at Belville, who showed awareness of gender-sensitive protocols.

71. Of the victims in sexual offences cases reported to Thuthuzela Care Centres and finalized at court in 2018/19, 988 were under the age of 18 years and 960 were 18 years or older. The National Prosecuting Authority noted that many teachers, social workers and police officers fail to report child abuse in their communities.

72. The Chair of the Gender-based Violence Committee at KwaZulu-Natal University emphasized that its gender-based violence policy must be strictly implemented to address the high incidence of sexual violence, including intimate partner violence, within the University.

2. Lack of victim support

73. Thuthuzela Care Centres were introduced in 2006 to reduce secondary victimization of survivors of sexual violence and increase conviction rates. The Centres are located at public hospitals and perform forensic examinations and provide counselling and medical treatment to survivors. According to the National Prosecuting Authority and NGOs, the Centres, which receive funding from the Department of Social Development and international donors, are underfunded. In the past four years, no additional Centres have been opened. They lack qualified social workers for psychosocial interventions. NGOs reported that many Centres are dilapidated and do not operate around the clock. Rape victims, including children, have to wait in pain until a doctor is on duty, especially at night or on weekends. Medication is often expired and stocks disappear.

74. The designated members visited Thuthuzela Care Centres in Cape Town, Umlazi (near Durban) and East London, which serve up to eight districts in total. The procedure for intake of victims was similar. After initial counselling by a social worker or NGO representative, the victim sees a nurse for post-exposure prophylaxis and HIV testing and a medico-legal doctor for a forensic examination. The victim has up to five days to decide if she wishes to file a complaint with the South African Police Service. If the victim is under 16 years of age, the Police Service must open a case. At Umlazi, police officers are on site around the clock. Free abortion is available up to 18 to 20 weeks. Victims are referred to psychosocial counselling, which is State-funded only until the end of a trial. There is a lack of NGOs that provide counselling.

75. The Department of Social Development is the lead response agency on gender-based violence and is responsible for victim empowerment services at the national and provincial levels. With an annual budget of 46 million South African rand (\$2.65 million), victim empowerment services are not adequately resourced. NGOs fill the gap in service provision. National law does not define victim empowerment services as mandatory services. In December 2019, the Cabinet approved a victim support services bill defining the duties of every department. The Department oversees six provincial Khuseleka One-stop Centres where victims can stay up to one month, and 220 White Door Centres of Hope, which provide shelter for victims for 24 hours and can refer them to other shelters.

76. The Domestic Violence Act does not mandate the Department of Social Development to operate or fund shelters. The Department subsidizes NGO-run shelters based on a daily benchmark allocation per resident that varies significantly by province, provided that the NGO concerned has infrastructure in at least four provinces. Daily rates for shelter residents are significantly lower than for prison inmates. A 2019 Commission for Gender Equality report on the state of shelters in

South Africa revealed a lack of funding. In Western Cape Province, where Department subsidies are highest, they cover 40 per cent of shelter budgets. Many shelters are not accredited by the Department and those that are raise funds to supplement the shortfall. The Commission for Gender Equality and NGOs stressed that all provinces should use the same funding model. International donors usually require that NGOs own the land on which a shelter is located.

77. The designated members visited shelters and safe houses in Johannesburg, Cape Town, Stellenbosch, East London and Durban. Owing to their limited capacity, shelters cannot accept all victims referred to them. The shelter visited in Johannesburg could take only 25 of the 350 women requesting placement annually. All shelters visited were fully occupied. Many residents shared a room with their children or other occupants. Most shelters accept children up to the age of 12 years who accompany victims, but lack the capacity to take victims with psychiatric conditions, who wait for months to be referred to a psychiatric hospital. Many shelters are reportedly reluctant to accept lesbian, bisexual, transgender and intersex women victims.

78. Most shelters provide or refer victims to medical treatment, psychosocial counselling, drug therapy, paralegal assistance and skills training to empower them to become economically independent. Victims expressed gratitude for the help, love and attention received at shelters. NGOs noted a lack of professional training opportunities for shelter residents. Western Cape is the only province where the Department of Social Development provides a dedicated allocation for skills development in shelters. As waiting lists for low-cost housing are long, victims sometimes stay longer than 12 months at a shelter. The shelter in Cape Town provided second-stage housing for victims at risk. An estimated 25 per cent of shelter residents return to their abusers.

79. A shelter director said that funding from the Department of Social Development involved too much bureaucracy. She appealed to individual donors to pay for salaries, utilities, training, schooling, transport, maintenance and a security company. The shelter in Cape Town had 26 staff, mostly social workers funded by the Department, but had no other large donors and had an annual deficit of 6 million South African rand.

H. Autonomy of survivors of domestic violence

1. Access to affordable housing

80. Many survivors remained in an abusive relationship because they had no access to affordable housing. The Department of Social Development stated that the provision of State-funded housing was beyond its budgetary reach. Neither the Social Housing Act nor the draft national special needs housing programme prioritizes survivors of gender-based violence.

2. Economic empowerment

81. Economic empowerment is crucial to strengthening victims' resilience. Many of the victims interviewed were unemployed, received minimal child support (430 South African rand per month per child) and struggled to pay for food, electricity, school and transport. Some were dependent on food parcels and clothes from social workers.

82. The sources of information explained that joint marital property is often not shared equally upon divorce. Although customary law allows for the division of marital property, many women are unaware that they must claim it or are precluded from doing so by cultural norms.

3. Child custody and maintenance

83. The risk of losing custody or contact with their children deters women from leaving abusive relationships. The length and complexity of divorce and child custody proceedings are further barriers. Several shelter residents had not seen their children, who lived with the victim's family or the abusive father's family, for long periods, because they lived far away or were refused contact. In some cases, family members abused the children.

84. Victim interviews revealed cases in which courts did not adequately take domestic violence into account when determining child custody or visitation rights.

85. Victims face difficulties in enforcing maintenance obligations. The Maintenance Amendment Act of 2015 has improved their situation by authorizing courts to order mobile phone service providers to disclose the address of the parent in default, order an arrest or seize the salary of the defaulting parent or direct the State to advance costs. However, interviews revealed that fathers often refused, were unable to pay maintenance or paid irregularly.

4. Education costs for children

86. The designated members were concerned to learn from victims that they had to spend their meagre resources on their children's education, as only certain "no-fee schools" are exempt from the obligation to supplement government funding by charging school fees.

VII. Legal findings

A. State party's obligations under the Convention in relation to domestic violence

87. Gender-based violence against women constitutes discrimination against women under article 1 and therefore engages all obligations under the Convention.⁵ Discrimination can occur through the failure of States not only to take the necessary legislative measures but also to enforce existing laws.⁶

88. States parties have a due diligence obligation under article 2 (e) of the Convention to take all appropriate measures to prevent, investigate, prosecute, punish and provide reparations for acts or omissions by non-State actors that result in gender-based violence against women, including domestic violence. The failure of a State party to take all appropriate measures to prevent acts of domestic violence when its authorities are aware or should be aware of the risk of such violence, or the failure to investigate, prosecute and punish perpetrators and to provide reparations to victims, provides tacit permission or encouragement to perpetrate domestic violence.⁷

89. Harmful practices, including child and forced marriage, polygamy and the abduction of women for forced marriage, are forms of gender-based violence.⁸

⁵ General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, para. 21; and general recommendation No. 19 (1992) on violence against women, para. 7.

⁶ General recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, para. 10.

⁷ General recommendation No. 35 (2017), para. 24 (b).

⁸ Ibid., para. 14.

Women and girls in such unions are at an increased risk of domestic violence.⁹ States parties have an obligation to repeal, including in customary and religious laws, any provisions that allow, tolerate or condone gender-based violence against women, including child and forced marriage and other harmful practices.¹⁰

90. Under articles 2 (c) and 15, States parties must ensure that victims of domestic violence have access to affordable, accessible and timely remedies, with legal aid, if necessary, free of charge.¹¹ They must provide access to effective reparations.¹² Ensuring access to justice requires individualized assistance for illiterate women to ensure their full understanding of judicial procedures, legal literacy programmes and supportive environments that empower women to report domestic violence.¹³ It may require the reimbursement of transportation costs to courts for women without sufficient means. States parties must protect women complainants from threats, harassment and retaliation before, during and after legal proceedings.¹⁴ They should financially support organizations that provide legal assistance to victims.¹⁵

91. States parties should, under article 2 (c), protect and assist women complainants of domestic violence by referring them to specialized support services, and ensure sufficient numbers of safe and adequately equipped shelters, medical, psychological and counselling services, training opportunities and affordable housing.¹⁶

92. Under articles 2 (f) and 5 (a), States parties are required to destigmatize victims of domestic violence, including rape, by enhancing understanding of its root causes, including the legacy of apartheid, and dismantling discriminatory stereotypes and cultural norms perpetuating domestic violence, as well as commonly held victim-blaming beliefs that women are responsible for the violence that they suffer, through awareness-raising programmes that target law enforcement bodies, education, health and social services and traditional and religious leaders.¹⁷ States parties should provide mandatory and recurrent capacity-building for the judiciary, law enforcement officers and forensic medical and health-care personnel to eliminate gender bias and stereotypes; ensure the strict application of criminal law provisions, the collection and preservation of evidence and the issuance and monitoring of protection orders in domestic violence cases; and assess the impact of such measures.¹⁸

⁹ Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices, paras. 22 and 27; and [CEDAW/C/OP.8/KGZ/1](#), para. 74.

¹⁰ General recommendation No. 35 (2017), para. 29 (c) (i).

¹¹ General recommendation No. 28 (2010), para. 34; general recommendation No. 35 (2017), paras. 29 (b) and 31 (a) (iii); and general recommendation No. 33 (2015) on women's access to justice, para. 17 (a).

¹² General recommendation No. 28 (2010), para. 34; and general recommendation No. 35 (2017), para. 33 (a).

¹³ General recommendation No. 33 (2015), paras. 17 (b), 33 (c) and 51 (d).

¹⁴ *Ibid.*, paras. 18 (g) and 51 (d).

¹⁵ General recommendation No. 28 (2010), para. 34; and general recommendation No. 35 (2017), para. 26 (b).

¹⁶ General recommendation No. 35 (2017), para. 31 (a).

¹⁷ *Ibid.*, para. 30 (b) (ii).

¹⁸ *Ibid.*, paras. 26 (c), 30 (b) and 31 (a); and general recommendation No. 33 (2015), paras. 29 (a) and 51.

B. Violations of rights under the Convention

1. Right to live free from domestic violence

(a) Lack of awareness-raising to prevent domestic violence

93. The Committee acknowledges efforts made by the State party to raise public awareness of the criminal nature of domestic violence and harmful practices that give rise to such violence through programmes targeting rural communities in particular. However, lack of funding and attempts by State institutions to justify harmful practices such as *ukuthwala*, child marriage and polygamy as consensual cultural practices undermine the effectiveness of these programmes. The limited impact of these measures underlines the need to take systematic and comprehensive preventive measures to address the stigmatization of victims and eliminate patriarchal stereotypes that persist in the State party, especially in rural areas, which perpetuate the social legitimization of domestic violence.

(b) Adequacy of the legislative framework

94. The Committee acknowledges the introduction of criminal penalties and protection orders to punish and prevent domestic violence. However, the failure to specifically criminalize all forms of domestic violence falls short of a clear message against this offence and is not commensurate with its extremely high prevalence in the State party.

95. The Committee notes that, under section 26 (1) of the Marriage Act, the minimum age of marriage for girls is 16 years and 18 years for men, and that the Minister for Home Affairs can authorize the marriage of a girl under the age of 16 years. It recalls its jurisprudence that child marriage is any marriage where at least one of the parties is under 18 years and is a forced marriage.¹⁹ While the Recognition of Customary Marriages Act requires consent for polygamous marriages and *ukuthwala* (sects. 2 (4) and 3 (1) (a) (ii)) and the Children's Act requires consent for marriages of children above the minimum age of marriage set by law (sect. 12 (2) (b)), they do not define the criteria for ascertaining free, full and informed consent. The Committee considers that, by failing to repeal provisions that allow, tolerate or condone child and forced marriage and other harmful practices, the State party exposes women and girls to increased risks of domestic violence.

(c) Lack of law enforcement

96. Compared with the number of cases reported to Thuthuzela Care Centres, the conviction rates for sexual offences are low (see para. 56 above). The low levels of prosecution and conviction in domestic and sexual violence cases (CEDAW/C/ZAF/CO/4, para. 24) and lenient sentences, especially for first-time offenders, are inadequate as a deterrent and incompatible with the State party's due diligence obligation under article 2 (e) of the Convention.

97. The frequent failure of the South African Police Service to assist and protect victims from revictimization and to serve, enforce and monitor protection orders, the lenient sanctions for breaches of orders²⁰ and police non-compliance with the Domestic Violence Act²¹ run counter to the obligation of the State party to provide effective protective mechanisms to prevent domestic violence.

¹⁹ Joint general recommendation No. 31/general comment No. 18 (2019), para. 20, as amended (see A/74/38, part three, decision 72/VI).

²⁰ General recommendation No. 35 (2017), para. 31 (a) (ii).

²¹ Ibid., para. 23.

98. In addition, law enforcement bodies are overly passive when investigating criminal complaints. Reluctance to register complaints, the returning of victims to the perpetrator, corruption or collusion with perpetrators and the failure to arrest perpetrators subject women to revictimization and undermine the effectiveness of police response to domestic violence. The loss of dockets and the absence of a centralized electronic case management system result in systematic failures in the investigation of cases.²²

99. The Committee notes the limited use of ex officio prosecution in cases of rape (only when the victim is under the age of 16 years) and upon the withdrawal of a domestic violence complaint. While ex officio prosecution can expose victims to retaliation, the lack of an automatic criminal justice response enables perpetrators and third parties to put pressure on victims not to file or to withdraw a complaint and gives rise to impunity for perpetrators and stigmatization of women who report domestic and sexual violence. It also notes that the heavy reliance by prosecutors on victims' testimonies as evidence weakens the criminal justice response to domestic violence.²³

(d) Lack of capacity-building and awareness-raising for the judiciary and the police

100. The Committee acknowledges the State party's efforts but notes the inadequacy and limited impact of capacity-building for judges, prosecutors and, in particular, the South African Police Service, and the need for further mandatory, recurrent and effective training on the diverse forms of domestic violence, the strict application of the Domestic Violence Act, gender-sensitive questioning and proper case management and evidence collection.

101. The frequent reluctance by law enforcement bodies and the judiciary to investigate, prosecute and punish acts of domestic violence, as well as the secondary victimization of women during legal proceedings, can be attributed to the persistence of discriminatory stereotypes within these bodies. The Committee notes that the lack of awareness-raising programmes to change traditional attitudes specifically targeted at the judiciary and police confines domestic violence to the private sphere, thereby contributing to a culture of impunity.

(e) Findings

102. The Committee finds the State party in violation of the following articles of the Convention:

(a) 1, 2 (f), 3, 5 (a), 10 (c) and (h) and 16, for failing to take sustained measures to prevent domestic violence and eliminate harmful practices by eradicating the discriminatory stereotypes and practices that are the root causes of domestic violence;²⁴

(b) 2 (b), (e) and (f), read in conjunction with 5 (a), 15 and 16, for failing to specifically criminalize all forms of domestic violence²⁵ and femicide and repeal provisions that allow, tolerate or condone child and forced marriage and other harmful practices giving rise to such violence;²⁶

²² General recommendation No. 33 (2015), para. 25 (a) (vi).

²³ Ibid., para. 51 (i).

²⁴ General recommendation No. 35 (2017), para. 30 (b).

²⁵ Ibid., para. 29 (a).

²⁶ Ibid., paras. 26 (a) and 29 (c) (i).

(c) 2 (b), (c) and (e), read in conjunction with 5 (a) and 15, by failing to effectively enforce and monitor protection orders against alleged perpetrators and impose adequate sanctions for non-compliance;²⁷

(d) 1 and 2 (b), (c), (e) and (f), read in conjunction with 3, 5 (a), 12 and 15, for failing to systematically prosecute cases of rape and domestic violence *ex officio*²⁸ and ensure that questioning and evidence collection in domestic violence cases are not influenced by discriminatory stereotypes and that women's and girls' testimonies as parties or witnesses are given due weight;²⁹

(e) 1 and 2 (c)–(e), read in conjunction with 5 (a), 12 and 15, for failing to comply with its due diligence obligation to effectively investigate, prosecute and punish cases of domestic violence, including sexual violence, and to provide effective reparation to victims; provide mandatory, systematic and effective capacity-building for the judiciary and law enforcement bodies³⁰ on the strict application of legislation prohibiting such violence³¹ and on gender-sensitive methods of investigation, cross-examination, case management and evidence collection;³² and raise their awareness to eliminate gender bias and discriminatory stereotypes.³³

2. Right to access to justice and victim support services

(a) Lack of legal aid and of measures to support and facilitate reporting by victims

103. The Committee considers that the State party has failed to create a supportive environment for women to report incidents of domestic violence by failing to destigmatize victims, dismantle commonly held victim-blaming beliefs, judicial bias and gender stereotypes and protect women complainants from retaliation by perpetrators.³⁴

104. The State party has also failed to adequately inform victims of their rights and explain judicial procedures, including the importance of showing imminent harm in order to obtain an eviction order and appearing at the hearing on the return date to obtain a final protection order, and to enable, adequately equip and hold the South African Police Service accountable for protecting and assisting victims.³⁵ Requiring victims to meet the perpetrator on the return date is incompatible with the obligation to provide gender-sensitive court procedures that protect the safety of complainants.³⁶

105. The State party has not removed the economic barriers to access to justice faced by victims of domestic violence. The lack of institutionalized affordable or, if necessary, free legal aid³⁷ (CEDAW/C/ZAF/CO/4, para. 17 (a)) and of reimbursement of transportation costs³⁸ deprives many victims without sufficient means of their right to bring their case to court.

106. The frequent delays in court proceedings in cases of domestic violence, and failure by the South African Police Service and the courts to ensure that such cases

²⁷ Ibid., para. 31 (a) (ii); and general recommendation No. 19 (1992), para. 24 (t).

²⁸ General recommendation No. 35 (2017), para. 32 (a).

²⁹ General recommendation No. 33 (2015), paras. 51 (h) and (i).

³⁰ General recommendation No. 35 (2017), para. 30 (e).

³¹ Ibid., para. 26 (c).

³² General recommendation No. 33 (2015), paras. 25 (a) (vi) and 51 (c), (g), (i) and (k).

³³ General recommendation No. 35 (2017), paras. 30 (e) (i) and (ii).

³⁴ General recommendation No. 33 (2015), paras. 18 (g) and 29 (a); and general recommendation No. 35 (2017), paras. 26 (c) and 30 (b) (ii).

³⁵ General recommendation No. 35 (2017), para. 23.

³⁶ Ibid., para. 31 (a) (i).

³⁷ General recommendation No. 33 (2015), paras. 17 (a) and 37 (a); and general recommendation No. 35 (2017), para. 31 (a) (iii).

³⁸ General recommendation No. 33 (2015), paras. 17 (a) and (e) and 37 (a).

are not referred to mediation, constitute further obstacles to women's access to justice.³⁹

(b) Limited access to victim support services

107. The Committee acknowledges that the State party enhanced accessibility to the justice system by establishing Thuthuzela Care Centres that provide legal and social services to victims of sexual violence.⁴⁰ However, the Centres are underfunded and inaccessible for many women in rural areas, and not all of them operate around the clock. The national machinery for the advancement of women lacks sufficient authority and resources to provide the oversight necessary to set accountability standards for departments that provide victim support services. The failure by the State party to ensure the budgetary allocations necessary for victim support services (CEDAW/C/ZAF/CO/4, para. 25 (d)), such as psychiatric and long-term psychosocial services, professional training and affordable housing, undermines the right of the victim to an effective remedy.⁴¹

108. The Committee notes the inadequate protection and support services for victims of domestic violence before, during and after legal proceedings, and in particular the absence of State-run shelters for women and their children. It observes that the limited capacity of NGO-run shelters and safe houses that provide medical, psychological and legal services to victims and the lack of professional training opportunities are direct consequences of the limited financial support they receive from the Department of Social Development. It recalls that the State party cannot absolve itself of its obligation to ensure protection and assistance to victims of domestic violence by delegating the provision of such services to NGO-run shelters without adequately funding them and ensuring that their services are accessible to all victims of domestic violence,⁴² including lesbian, bisexual, transgender and intersex women.

109. The Committee considers that women's insufficient economic protection upon divorce, the inadequate consideration of domestic violence in court proceedings to determine custody or visitation rights, long delays in divorce and child custody proceedings, the limited enforcement of maintenance obligations and the State party's failure to introduce free secondary education perpetuate women's dependence on abusive partners.

(c) Findings

110. The Committee finds that the State party is in violation of the following articles of the Convention:

(a) 2 (c), 5 (a) and 15, for failing to remove economic and social barriers to access to justice faced by victims of domestic violence by not providing affordable or, if necessary, free legal aid and the reimbursement of costs for travel to courts, and by failing to create a supportive environment for women to report incidents of domestic violence and ensure gender-sensitive court procedures;

(b) 2 (c) and (e), 11 (c), 12 and 15, for failing to ensure the budgetary allocations necessary for victim empowerment services and provide appropriate

³⁹ General recommendation No. 33 (2015), paras. 51 (j) and 58 (c); and general recommendation No. 35 (2017), para. 32 (b).

⁴⁰ General recommendation No. 33 (2015), para. 17 (f).

⁴¹ General recommendation No. 35 (2017), paras. 31 (a) (iii) and 33 (a).

⁴² Ibid., para. 26 (b); general recommendation No. 28 (2010), para. 34; and CEDAW/C/OP.8/KGZ/1, para. 81.

protection and support services, including a sufficient number of adequately funded Thuthuzela Care Centres, shelters and safe houses, to women and their children;⁴³

(c) 2 (c) and (e), 10, 13 and 16, for failing to ensure women's adequate protection with regard to divorce, child custody and maintenance proceedings, and their social protection, as well as free education for their children, to empower victims of domestic violence to leave abusive relationships.

C. Principal findings of violations under the Convention

111. In the light of the foregoing, the Committee finds that South Africa has violated the following articles of the Convention: 1, 2 (f), 3, 5 (a), 10 (c) and (h) and 16; 2 (b), (e) and (f), read in conjunction with 5 (a), 15 and 16; 2 (b), (c) and (e), read in conjunction with 5 (a) and 15; 1 and 2 (b), (c), (e) and (f), read in conjunction with 5 (a), 12 and 15; 1 and 2 (c)–(e), read in conjunction with 3, 5 (a), 12 and 15; 2 (c), 5 (a) and 15; 2 (c) and (e), 11 (c), 12 and 15; and 2 (c) and (e), 10, 13 and 16. The content of these articles is further developed in the Committee's general recommendation Nos. 18 (1991), 19 (1992), 21 (1994), 29 (2013), 33 (2015) and 35 (2017), and general recommendation No. 31/general comment No. 18 (2019).

D. Grave or systematic nature of the violations

112. Pursuant to article 8 of the Optional Protocol and rule 83 of its rules of procedure, the Committee must assess whether the violations of rights are grave or systematic.

113. The Committee considers violations to be "grave" if they are likely to produce substantial harm to victims. A determination regarding the gravity of violations must take into account the scale, prevalence, nature and impact of the violations found.

114. The term "systematic" refers to the organized nature of the acts leading to the violations and the improbability of their random occurrence. The systematic denial of equal rights for women can take place either deliberately or as a result of discriminatory laws or policies, with or without such purpose. The systematic nature of violations can also be assessed in the light of the presence of a significant and persistent pattern of acts that do not result from a random occurrence.

115. The Committee assesses the gravity of violations in the State party in the light of the suffering experienced by women and girls subjected to domestic violence. It notes the physical and psychological harm caused by domestic and sexual violence, especially in child and forced marriages, as well as the adverse impact such violence may have on women's and girls' right to education, economic empowerment, sexual and reproductive health and rights, and equal rights in marriage and family relations. The situation gives women and girls who are victims of domestic violence two options: to remain in the abusive domestic relationship; or to leave the relationship at the risk of retaliation, separation from their children, poverty and stigmatization, and with limited access to justice, protection and support services. In either case, victims often find themselves without effective protection from further violence. Victims of domestic violence must thus choose between staying in the abusive relationship or enduring the social, economic and safety consequences of leaving it. In both cases, they are at risk of violations of their rights.

116. The Committee finds that the State party is responsible for:

⁴³ General recommendation No. 35 (2017), para. 31 (a) (iii).

(a) Grave violations of rights under the Convention, considering that the State party has failed to protect a significant number of women and girls from domestic violence and to provide adequate access to justice, protection and support to enable women to leave abusive domestic relationships, thereby exposing them to or unnecessarily prolonging their severe physical and mental suffering;

(b) Systematic violations of rights under the Convention, considering that the State party has knowingly omitted to take effective measures:

(i) To address patriarchal attitudes and social norms that legitimize domestic violence and to destigmatize victims;

(ii) To specifically criminalize domestic violence and femicide, enforce and monitor civil remedies against perpetrators, repeal provisions that tolerate harmful practices giving rise to domestic violence, enforce general criminal law provisions punishing domestic violence and prosecute ex officio domestic violence and rape;

(iii) To establish appropriate institutional arrangements, oversight and accountability measures to protect victims of and prevent domestic violence;

(iv) To remove the economic and social barriers faced by victims of domestic violence and create a supportive environment that enables victims to obtain access to justice.

117. The Committee considers that the State party has knowingly accepted these omissions, which are not a random occurrence, as evidenced by the extremely high levels of domestic violence in the State party. They constitute elements of systematic violations of rights under the Convention.

VIII. Recommendations

A. Legal and institutional framework

118. **The Committee recommends that the State party:**

(a) **Specifically criminalize and establish penalties commensurate with the gravity of all forms of domestic violence and femicide and introduce ex officio prosecution with the possibility of issuing a final warning rather than sentencing the perpetrator when a victim withdraws her complaint upon reconciliation;**

(b) **Harmonize the definition of gender-based violence across all legislation, identify the specific responsibilities of governmental departments to address domestic violence and require them to provide budgetary benchmarks or dedicated resources for gender-responsive budgeting;**

(c) **Provide dedicated funding for the implementation of the National Strategic Plan on Gender-based Violence and Femicide and ensure that the Gender-based Violence and Femicide Council is adequately resourced, independent and has a strong mandate;**

(d) **Amend section 26 (1) of the Marriage Act and section 3 of the Recognition of Customary Marriages Act to raise the minimum age of marriage to 18 years for both women and men without exception, empower courts to invalidate child and forced marriages, prohibit *ukuthwala* involving girls and the payment of bride prices and enforce the prohibition of child and forced marriage, particularly in rural areas and within traditional communities;**

(e) **Repeal provisions of the Recognition of Customary Marriages Act that allow, tolerate or condone harmful practices such as polygamy and *ukuthwala***

and amend the Act to define the criteria for ascertaining the free, full and informed consent of the women concerned;

(f) Adopt the Women Empowerment and Gender Equality Bill and ensure that it defines and prohibits all forms of direct and indirect discrimination against women and provides stronger mandates to the national machinery for the advancement of women to regulate service provision and to the Commission for Gender Equality to oversee and hold the Government accountable for the implementation of gender equality legislation.

B. Law enforcement

119. The Committee recommends that the State party:

(a) Exercise due diligence to prevent, investigate and punish domestic violence and provide effective remedies to victims of domestic violence;

(b) Ensure that perpetrators of domestic violence are not released on bail, are prosecuted and receive penalties commensurate with the gravity of the offence, as well as adequate correctional and rehabilitation services to prevent recidivism;

(c) Provide mandatory, recurrent and effective capacity-building for the judiciary, law enforcement officers, forensic medical experts, health-care personnel and social workers with regard to all forms of domestic and sexual violence, the strict application of the Domestic Violence Act and the Sexual Offences Act, gender-sensitive questioning, proper case management and the collection and use of forensic evidence, and their role in protecting, encouraging and assisting victims in reporting cases of domestic violence;

(d) Prosecute all cases of rape ex officio, including when the victim is 16 years or older or withdraws her complaint against the perpetrator;

(e) Provide systematic training to ensure that law enforcement officers investigate domestic violence cases swiftly, independently and thoroughly, including when a victim withdraws her complaint upon reconciliation with the perpetrator;

(f) Provide the South African Police Service with the skills and means, including sufficient vehicles, information technology tools and training, necessary to serve, enforce and monitor protection orders, accompany victims to collect personal belongings and confiscate firearms from perpetrators;

(g) Strengthen accountability mechanisms to punish officers of the South African Police Service for non-compliance with their duty to investigate and their obligations under the Domestic Violence Act, corruption or collusion with perpetrators;

(h) Provide confidential debriefing spaces and psychological support to officers of the South African Police Service undergoing trauma, and incentives to register domestic violence cases by including gender-based violence indicators in their performance evaluation plans;

(i) Introduce an electronic case management system and provide training on its use to prevent the loss of dockets.

C. Access to justice

120. The Committee recommends that the State party:

(a) Remove barriers to justice faced by women and girls, including by providing institutionalized affordable or, if necessary, free legal aid for domestic violence victims, irrespective of the perpetrator's legal representation, and the reimbursement of transportation costs, and by funding organizations providing legal assistance to victims;

(b) Require court clerks to assist victims with completing application forms for protection orders and inform them about the need to show imminent harm and to appear on the return date for obtaining an eviction or a final protection order, as well as the need to report recurring violence;

(c) Train magistrates and clerks to formulate protection orders that effectively protect victims and prohibit further acts of domestic violence, and ensure that applicants are received outside court working hours, are referred to victim support services and that they can make applications online and in victim-friendly facilities;

(d) Ensure that police officers located in Thuthuzela Care Centres are available around the clock, increase the number of adequate victim-friendly facilities in police stations and ensure that officers and volunteers undergo training on gender-sensitive protocols;

(e) Ensure that victims of domestic violence have access to effective remedies, including rehabilitation, and that cases are not referred to alternative dispute resolution procedures or traditional courts prioritizing mediation;

(f) Create a supportive environment to encourage victims to report incidents of domestic violence by:

(i) Destigmatizing victims, dismantling commonly held victim-blaming beliefs, protecting victims from threats and retaliation by perpetrators before, during and after legal proceedings and imposing strict penalties for breaches of protection orders;

(ii) Ensuring that victims have access to forensic psychiatric evidence, especially in rural areas, and fast-tracking forensic medical examinations at day hospitals;

(iii) Ensuring that court proceedings are not unduly prolonged, avoiding direct confrontation of victims with perpetrators, eliminating judicial gender bias and raising awareness among the judiciary and police of the need to give due weight to women's and girls' testimonies as parties and witnesses;

(iv) Ensuring that courts adequately take into account domestic violence when determining child custody or visitation rights;

(g) Establish a centralized electronic case management system in the judiciary to ensure the effective and efficient handling of cases of domestic violence.

D. Victim support

121. The Committee calls upon the State party:

(a) To increase the number of and provide sufficient funding to Thuthuzela Care Centres to ensure that they can operate around the clock, provide adequate medical and psychosocial support to victims of sexual violence, particularly in rural areas, and train social workers on trauma counselling;

(b) To adopt the Victim Support Services Bill, define victim empowerment services as mandatory services, adequately fund NGO-run shelters and safe houses, increase the daily benchmark allocation per resident using the same funding model in all provinces, remove bureaucratic obstacles to Department of Social Development subsidies and the requirement for NGOs to have infrastructures in at least four provinces and facilitate the acquisition by NGOs of the land where their shelter premises are based;

(c) To ensure that shelters and safe houses have sufficient capacity to receive victims of domestic violence, including those with psychiatric conditions and lesbian, bisexual, transgender and intersex women victims, and their children, provide dedicated allocations for skills development in shelters in all provinces and fully implement the recommendations in the 2019 Commission for Gender Equality report on the state of shelters in South Africa;

(d) To ensure that survivors of domestic violence and their children have access to affordable housing, free education, long-term psychosocial support, loans, credit and other basic services and financial support, and are economically empowered to gain economic autonomy to leave and recover from abusive relationships;

(e) To ensure that women have economic protection upon divorce, reduce the length of divorce proceedings, enforce maintenance obligations and provide adequate child support to mothers leaving an abusive relationship.

E. Prevention and awareness-raising

122. The Committee recommends that the State party:

(a) Adopt, effectively implement and adequately fund preventive measures to challenge and dismantle the root causes of domestic violence, including patriarchal attitudes and discriminatory stereotypes that perpetuate or legitimize domestic violence and harmful practices that give rise to such violence and confine it to the private sphere, and combat the culture of silence and impunity surrounding domestic and sexual violence;

(b) Implement and financially support civil society organizations conducting awareness-raising programmes for the general public and political, traditional and religious leaders, initiators, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities and the media to promote understanding of the criminal nature of all forms of domestic violence, including psychological and economic violence, rape and harmful practices and the incompatibility of certain cultural practices with women's rights, and address the stigma faced by victims;

(c) Strengthen educational programmes on women's rights and gender equality at all levels of education to eliminate stereotyped gender roles and sensitize girls and boys on the harm caused by gender-based violence;

(d) Raise awareness among police officers, social workers, teachers and lecturers of their duty to report child abuse in their communities, and sexual violence, including intimate partnership violence, at universities, respectively;

(e) Implement sustained drug abuse and alcoholism treatment and education programmes in communities and schools.

F. Accountability and data collection

123. The Committee recommends that the State party:

(a) Establish accountability mechanisms and a system to monitor and evaluate the implementation of the National Strategic Plan on Gender-based Violence and Femicide and regularly collect, analyse and publish disaggregated statistical data on the number of complaints about all forms of domestic violence, the rates of dismissal and withdrawal of complaints, including upon reconciliation, the rates of prosecution and conviction, the sentences imposed on perpetrators and the reparations provided to victims;

(b) Conduct research and a dedicated survey on gender-based violence to obtain more reliable data on the extent and economic impact of gender-based violence, including domestic violence, in the State party.



Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
17 November 2021

Original: English
English, French and Spanish only

Committee on the Elimination of Discrimination against Women

Inquiry concerning South Africa conducted under article 8 of the Optional Protocol to the Convention

Observations of South Africa*

[Date received: 11 November 2021]

* The present document is being issued without formal editing.



I. Introduction

1. In 2019, the UN CEDAW Committee conducted a Confidential Inquiry Visit with the Government of South Africa, under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
2. South Africa received the report of the Inquiry Visit from the CEDAW Committee in November 2020. Due to a number of challenges, the country was unable to respond within the allocated 6 months period to the findings contained in the Report. One of the major reasons for this is the impact of the COVID-19 pandemic and resultant lockdown levels in the country which resulted in major disruptions to the world of work. This impacted on the ability to share the report with the key role-players in Government as well as coordinating a process to obtain the necessary responses to the findings. This resulted in a delay in South Africa responding to the findings of the Inquiry Report.
3. Notwithstanding this, the country has now been able to develop its responses to the CEDAW Committee which is contained in the section below.

II. Responses

<i>Findings</i>	<i>Responses</i>
102. The Committee finds the State party in violation of the following articles of the Convention:	
(a) 1, 2(f), 3, 5(a), 10(c) and (h) and 16, for failing to take sustained measures to prevent domestic violence and eliminate harmful practices by eradicating the discriminatory stereotypes and practices that are the root causes of domestic violence;	South Africa has implemented and reviewed several pieces of legislation to date to ensure sustained measures to prevent domestic violence and eliminate harmful practices. On 10 September 2021, the Parliament of the Republic of South Africa passed the amendments of a package of three important interrelated Bills aimed at fighting the scourge of violence against women and children and address a number of issues addressed in the Committee findings. The three Bills are:
(b) 2(b), (e) and (f), read with 5(a), 15 and 16, for failing to specifically criminalize all forms of domestic violence and femicide and repeal provisions that allow, tolerate or condone child and forced marriage and other harmful practices giving rise to such violence;	(a) Domestic Violence Amendment Bill, B 20-2020;
(c) 2(b), (c) and (e), read with 5(a) and 15, by failing to effectively enforce and monitor protection orders against alleged perpetrators and impose adequate sanctions for non-compliance;	(b) Criminal and Related Matters Bill, B 16-2020;
(d) 1 and 2(b), (c), (e) and (f), read with articles 3, 5(a), 12 and 15, for failing to systematically prosecute cases of rape and domestic violence ex officio and ensure that questioning and evidence collection in domestic violence cases are not influenced by discriminatory stereotypes and that women's and girls' testimonies as parties or witnesses are given due weight;	(c) Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill B 17-2020
(e) 1 and 2(c), (d) and (e), read with articles 5(a), 12 and 15, for failing to comply with its due diligence obligation to effectively investigate, prosecute and punish cases of domestic including sexual violence and	Domestic Violence Amendment Bill The DVA Bill seeks to amend the provisions of the Domestic Violence Act, 1998 (Act No. 116 of 1998) (the Act), to address practical challenges, gaps and anomalies which have manifested themselves since the Act was put into operation in 1999 and which render women and children helpless to the violence they experience, often in the confines of their homes. Key intervention 1: Strengthen leadership and accountability

<i>Findings</i>	<i>Responses</i>
to provide effective reparation to victims; provide mandatory, systematic and effective capacity-building for the judiciary and law enforcement bodies on the strict application of legislation prohibiting such violence and on gender sensitive methods of investigation, cross-examination, case management and evidence collection; and raise their awareness to eliminate gender bias and discriminatory stereotypes.	<p>a) Functionary's obligation to report domestic violence</p> <p>Clause 2A of the Bill puts a positive obligation on a functionary, who in the course of the performance of their duties or the exercise of their functions obtains information which, after evaluation by them, causes them to believe or suspect on reasonable grounds, that a child, a person with a disability or an older person is a victim of domestic violence to without delay report such belief or suspicion to a social worker or a member of the South African Police Service.</p> <p>b) Adult obligation to report domestic violence</p> <p>Clause 2B of the Bill places an obligation on an adult person who knows, or believes or suspects on reasonable grounds, that an act of domestic violence has been committed against a child, a person with a disability or an older person, to report such knowledge, belief or suspicion as soon as possible, to a social worker or the South African Police Service.</p> <p>c) Domestic Violence Safety Monitoring Notice</p> <p>Clause 4 A (6) of the Bill empowers the court to order the station commander to direct a member of the South African Police Service under their command to contact the complainant at regular intervals by means of an electronic service at an electronic address as specified in an Annexure to the notice, and to enquire about the complainant's wellbeing; and at regular intervals, to visit the joint residence and to see and to communicate in private with the complainant.</p> <p>d) Electronic Communications Service Providers to assist courts</p> <p>Clause 5B(1) of the Bill provides that if an application for a protection order is made and it is necessary to determine whether an electronic communication, which was used to commit an act of domestic violence, was disclosed by the respondent, the court may direct an electronic communications service provider, that is believed to be able to furnish particulars, to furnish the court by means of an affidavit with, inter alia, any information that is available to an electronic communications service provider that may be of assistance to the court to identify the person who disclosed the electronic communication or the electronic communications service provider, that provides a service to that person.</p> <p>Clause 5B(6) of the Bill provides that if the court issues a protection order, it must at the same time issue an order to the electronic communications</p>

<i>Findings</i>	<i>Responses</i>
	<p>service provider whose electronic communications service is used to host or disclose the electronic communication which was used to commit an act of domestic violence, to immediately remove or disable access to the electronic communication.</p> <p>e) Director-General to develop an electronic repository of domestic violence protection orders</p> <p>Clause 6A(1) of the Bill obliges the Director-General to develop, establish and maintain the integrated electronic repository for domestic violence protection orders. This repository will store all domestic violence related documents for easy access and retrieval by authorised personnel in case where the original document is lost, destroyed or misplaced.</p> <p>f) Directives for clerks of the court</p> <p>Clause 18A of the Bill obliges the Director-General: Justice and Constitutional Development to issue directives with which clerks of the court must comply in the execution of their functions in terms of the Domestic Violence Act, which directives must be published in the Gazette. The directives will set out the duties and responsibilities of the clerks of the court in relation to applications for domestic violence protection orders, and must ensure that adequate disciplinary steps will be taken against a clerk of the court who fails to comply with any directive.</p>
<p>2. Right to access to justice and victim support services</p>	
<p>(a) Lack of legal aid and of measures to support and facilitate reporting by victims</p>	
<p>103. The Committee considers that the State party has failed to create a supportive environment for women to report incidents of domestic violence by failing to de-stigmatize victims, dismantling commonly held victim-blaming beliefs, judicial bias and gender stereotypes, and protect women complainants from retaliation by perpetrators.</p>	<p>South Africa has put in places measures to create a supportive environment for women to report incidences of domestic violence.</p> <p>The South African Police Services has always worked to provide Victim Friendly Rooms and that Victim Friendly Facilities at police stations and at (FCS) Family Violence, Child Protection and Sexual Offences Units. These facilities provide a private place where victims can be interviewed and statements can be taken assuring that victims' rights are protected. A Victim Friendly Room is a dedicated refurbished room within the premises of police station, established to ensure that victims can report all forms of sexual offences in an environment that assures confidentiality and respect and also upholds their dignity. These services work towards reducing secondary victimisation and enabling victims to</p>

<i>Findings</i>	<i>Responses</i>
	<p>provide details that not only assist them as part of a cathartic experience, but also assist in investigation.</p> <p>The provision of training of the Police members is a crucial element for ensuring that SAPS improves on the services rendered to victims of domestic violence and abuse. First Responder to Sexual Offences course for members of visible policing and client services centre is also provided. Sexual Offences course for investigating officers are also provided.</p> <p>A number of education and awareness raising campaigns on reporting incidences of abuse and sexual violence are held annually by the SAPS.</p> <p>In addition, the Member state has implemented a number of programmes and dialogues to destigmatize victims and gender stereotypes.</p> <p>South Africa conducted National Dialogues across the country and provided platforms for discourse with local communities on their lived experiences on Violence against Women and Children. The National Dialogues were aimed to understand the root causes and manifestations of gender-based violence, to strengthen and enhance community participation and to find solutions.</p> <p>The programme of national dialogues is also aimed at unravelling reasons why violence against women is not abating despite the unprecedented body of laws and world class institutional mechanisms.</p> <p>For example, the Western Cape DSD funds court support services at 10 courts in the Cape Town Metropolitan areas and rural areas, to assist victims of gender-based violence to access protection orders and offer psychosocial support.</p> <p>Parliament is also in the process of finalising the Criminal Procedure Amendment Bill, B 12-2021. The Bill is intended to amend the Criminal Procedure Act, 1977, so as to further regulate the publication of information which reveals or may reveal the identity of, amongst others, a witness or person against whom an offence has allegedly been committed who is under the age of 18 years.</p>
104. The State party has also failed to adequately inform victims of their rights and explain judicial procedures, including the importance of showing imminent harm for obtaining an eviction order, or appearing at the hearing on return date for obtaining a final protection order, and to capacitate, adequately equip and hold SAPS accountable for protecting and assisting victims. Requiring victims to meet the	<p>In line with Pillar 2 of the GBVF NSP, the Department of Justice and Constitutional Development implement public education and communication interventions to educate people on their rights to access justice. Information is released through multi-lingual media platforms and in different formats so as to ensure accessibility to diverse court users and the general public.</p>

<i>Findings</i>	<i>Responses</i>
perpetrator on return date is incompatible with the obligation to provide gender-sensitive court procedures that protect the safety of complainants.	<p>Every year the Department of Justice holds exhibitions and service fairs to raise awareness about justice services, particularly services available to survivors of GBVF-related crimes, including sexual offences.</p> <p>In line with the 365 Days Campaign, the Department conducted a number of Imbizo and community gatherings to educated people on court-based support services available to survivors of sexual offences.</p> <p>South Africa is implementing the new model for Sexual Offences Courts which provides the following services to remove the barriers to access justice:</p> <p>Court preparation services: The programme familiarises the victim with court processes, procedures, services and benefits. It aims to help victims to be an effective witness in court. On the date of trial, you will be welcomed in court by the Court Preparation Officer (CPO).</p> <p>Pre- and post-trial trauma debriefing services: The CPO will take you through trial trauma debriefing sessions before the trial commences and once it is concluded to help you deal with the trauma of the incident.</p> <p>Intermediary services: If you are a child victim or a person with mental disability, the prosecutor will apply to court to allow you to testify in a private testifying room with the assistance of an intermediary. The role of the intermediary is to convey questions from court to you in an understandable manner.</p> <p>Private testifying room/closed court services: If you are an adult witness, the law allows you to testify from a private testifying room via the closed-circuit TV system if you feel more comfortable to do so. This will ensure that you do not need to be in the physical presence of the accused when testifying.</p> <p>Private waiting rooms for adult and child victims: The child witness room has standard furniture specifically designed to meet the needs of traumatised children. It also provides a play area, reading centre, and a child's bed-sofa for resting. The adult waiting room is also furnished to make the court experience more comfortable for victims. Information services are available at the private waiting rooms for victims, mainly to inform you of your rights and the available court services. The information is offered in the form of educational booklets, DVDs, and in braille.</p> <p>Witness fee services: The department provides witness fees to cover return travelling costs and food while in court.</p>

*Findings**Responses*

105. The State party has not removed the economic barriers to access to justice faced by victims of domestic violence. The lack of institutionalized affordable or, if necessary, free legal aid (CEDAW/C/ZAF/CO/4, para. 17 (a)) and of reimbursement of transportation costs deprives many victims without sufficient means of their right to bring their case to court.

Provision of legal aid at State expense

Clause 19(1) of the Domestic Violence Act amendment Bill empowers the Minister of Justice and Correctional Services to make regulations regarding, inter alia, the granting of legal aid at State expense in appropriate cases in consultation with the Legal Aid South Africa to the complainant, respondent or a child to assist them with an application for a protection order in terms of this Act. The provision of legal aid is no longer confined to a child but is extended to the complainant and respondent.

In line with sexual offences court model, the Department of Justice provides witness fees to cover return travelling costs and food while in court. In terms of section 191 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) any person who attends criminal proceedings as a witness for the State shall be entitled to such allowance as may be prescribed by the Minister of Justice in consultation with the Minister of Finance.

106. The frequent delays in court proceedings in cases of domestic violence and failure by SAPS and the courts to ensure that such cases are not referred to mediation, constitute further obstacles to women's access to justice.

The National Prosecuting Authority is implementing a 100-day rapid results approach to speed up case turnaround times.

South Africa has introduced a national and provincial 24-hour call centres to deal with complaints against police officials, prosecutors and magistrates on gender-based violence and femicide cases. The country is working to reduce the GBV case backlogs at forensic laboratories. As part of interventions to address the DNA case backlog, an additional R250 million was allocated to the operational baseline budget to address challenges in forensic laboratory services in 2021.

The South Africa Police Services trains recruits on basic training to the Family Violence, Child Protection and Sexual Offences Units. Rape evidence collection kits have been distributed to police stations across the country.

Government employees who work with children and mentally disabled persons are being vetted against the National Register of Sex Offenders. To date, 1,222 officials have been vetted, including prosecutors and members of the SAPS.

(b) Limited access to victim support services

107. The Committee acknowledges that the State party enhanced accessibility to the justice system by establishing TCCs that provide legal and social services to victims of sexual violence. However, TCCs are

The Sexual Offences and Community Affairs (SOCA) within the National Prosecuting Authority provide assistance to GBV survivors to access efficient and

<i>Findings</i>	<i>Responses</i>
underfunded, inaccessible for many women in rural areas, and not all of them operate 24/7. The national machinery for the advancement of women lacks sufficient authority and resources to provide the oversight necessary for setting accountability standards for departments providing victim support services. The failure by the State party to ensure the necessary budgetary allocations for victim support services (CEDAW/C/ZAF/CO/4, para. 25 (d)), such as psychiatric and long-term psychosocial services, professional training and affordable housing, undermines victims' right to an effective remedy.	<p>sensitive criminal justice that is quick, accessible, and responsive and gender inclusive.</p> <p>The SOCA unit deliver crucial training sessions nationally on virtual platforms, focusing on sexual offences, domestic violence, maintenance, child justice, trafficking in persons and integrated stakeholder training at TCC sites. Together with experts from various academic institutions, SOCA designed and developed a Court Report Training Manual encompassing all forms of expert assessment reports required in court and the submission of reports and viva voce evidence by experts in court.</p> <p>The use of court preparation officers by the NPA to prepare witnesses for court is an initiative aimed at empowering witnesses and victims and reducing secondary trauma. In the 2020/21 reporting period, 55 579 witnesses were assisted by the court preparation officers and 4 189 victim impact statements were facilitated. Witnesses appearing in all criminal courts are assisted, however, the bulk of the witnesses are in respect of regional courts cases (83.6%) with a particular focus on witnesses in sexual offences cases (53%).</p> <p>The Western Cape DSD funds psychosocial services at all Thuthuzela Care Centres (TCC) in the province. Services funded include funding of lay counsellors or social auxiliary workers to provide emotional containment of rape victims when presented at the TCC, as well as funding of social workers to provide long term psychosocial support. The Department has furthermore appointed 30 GBV social workers in 2020 that assist with long-term psychosocial support of victims. Lay counsellors and Social auxiliary workers work under supervision of a social worker.</p> <p>GBV Command Centre</p> <p>The Gender Based Violence (GBV) Command Centre is implemented as an initiative of the Department of Social Development. The GBV Command Centre provides immediate care and counselling and offers help, hope and the chance of a better life to the many thousands of victims of gender-based abuse, even in the remotest and most underdeveloped corners of South Africa.</p> <p>The GBV Command Centre is a comprehensive, integrated system that provides immediate, consistent, coordinated and timely support to victims of GBV. Its services are linked to the services of the SAPS and the Department of Health. The GBV Command Centre uses mobile technology to estimate the location of a</p>

<i>Findings</i>	<i>Responses</i>
<p>108. The Committee notes the inadequate protection and support services for victims of domestic violence before, during and after legal proceedings, and in particular the absence of State-run shelters for women and their children. It observes that the limited capacity of NGO run shelters and safe houses providing medical, psychological and legal services to victims and the lack of professional training opportunities are direct consequences of the limited financial support they receive from DSD. It recalls that the State party cannot absolve itself of its obligation to ensure protection and assistance to victims of domestic violence by delegating the provision of such services to NGO-run shelters without adequately funding them and ensuring that their services are accessible to all victims of domestic violence, including LGBTI women.</p>	<p>victim, assign the closest social worker in the field to the case, record and receive continuous feedback on the case. The GBV Command Centre employs trained social workers/command centre agents who provide immediate counselling to victims and help them to avoid or minimise further exposure to GBV.</p> <p>The Department of Social Development carries the responsibility to establish Shelters for victims of crime and violence particularly abused women and their children. These include the White Doors (safe places of hope) and Khuseleka One Stop Centres. The Sheltering services are provincial located and managed.</p> <p>For example, currently 19 shelters in the Western Cape are funded by the Provincial Department of Social Development and is in the process of activating a further 6 shelters in the rural areas. The Department opted for a holistic funding model of shelters that include unit cost, contribution towards security of shelters, funding of three house mother posts per shelter, skills development for women and the funding of a social worker and social auxiliary worker per shelter (pending on the size of the shelter). The Department has also rolled out a training programme for social workers, house mothers and social auxiliary workers in trauma support.</p> <p>The National Department of Social Development has embarked on the development of an Intersectoral Policy on Sheltering service to address various issues on the provision of sheltering service such as capacity building of victims in terms of skills development, accessibility of the service to victims, funding of the shelters and role clarification of other stakeholders including the Department of Human Settlement and other.</p> <p>Khuseleka One Stop Centres</p> <p>The Department of Social Development has state owned Khuseleka One-Stop Centres. It is a good model because of its multi-sectoral approach and its aim is to provide integrated services that represent a unique partnership between all the departments in the government of South Africa, development agencies and civil society Organizations in the country. Khuseleka One Stop Centre provides a “place of refuge” where victims of crime and violence are offered a continuum of services from one central point within a multidisciplinary approach model with different relevant stakeholders under one roof. It renders a full basket of services including reintegration of survivors into the community and self-reliance.</p>

Findings

109. The Committee considers that women's insufficient economic protection upon divorce, inadequate consideration of domestic violence in court proceedings to determine custody or visitation rights, long delays in divorce and child custody proceedings, limited enforcement of maintenance obligations, and the State party's failure to introduce free secondary education perpetuate women's dependence on abusive partners.

Responses

South Africa began with the 'no-fee' school policy (NFSP) implementation on 01 January 2007. The policy abolished mandatory school fees in public ordinary schools to make basic education available to poor learners in the country. Parents of children in a school that is declared a 'no-fee' school, do not have to pay school fees for their child (ren), this includes registration or activity fees.

The National School Nutrition Programme is the government programme that provides one nutritious meal to all learners in poorer primary and secondary schools. The objective is to provide nutritious meals to learners so as to improve their ability to learn. National School Nutrition Programme (NSNP) that feeds around nine million learners, is a foundation of social assistance and poverty mitigation and contributed greatly to ensuring that learners in our country have access to quality education.

Government of South Africa approved the national learner transport policy in 2015. Currently, the policy is in the implementation mode. These and many other social protection measures are introduced to support the implementation of free basic education in South Africa,

(c) Findings

110. The Committee finds that the State party is in violation of the following articles of the Convention:

(a) 2 (c), 5 (a) and 15, for failing to remove economic and social barriers to access to justice faced by victims of domestic violence, by not providing affordable or, if necessary, free legal aid and reimbursement of costs for travel to courts, and by failing to create a supportive environment for women to report incidents of domestic violence and ensure gender-sensitive court procedures;

Provision of legal aid at State expense

Clause 19(1) of the Domestic Violence Act Amendment Bill empowers the Minister of Justice and Correctional Services to make regulations regarding, inter alia, the granting of legal aid at State expense in appropriate cases in consultation with the Legal Aid South Africa to the complainant, respondent or a child to assist them with an application for a protection order in terms of this Act. The provision of legal aid is no longer confined to a child but is extended to the complainant and respondent.

The new model for Sexual Offences Courts provides the following services to remove the barriers to access justice:

Court preparation services: The programme familiarises the victim with court processes, procedures, services and benefits. It aims to help victims to be an effective witness in court. On the date of trial, you will be welcomed in court by the Court Preparation Officer (CPO).

<i>Findings</i>	<i>Responses</i>
(b) 2 (c) and (e), 11 (c), 12 and 15, for failing to ensure the necessary budgetary allocations for victim empowerment services and provide appropriate protection and support services, including a sufficient number of adequately funded TCCs, shelters and safe houses, to women and their children;	<p>Pre- and post- trial trauma debriefing services: The CPO will take you through trial trauma debriefing sessions before the trial commences and once it is concluded to help you deal with the trauma of the incident.</p> <p>Intermediary services: If you are a child victim or a person with mental disability, the prosecutor will apply to court to allow you to testify in a private testifying room with the assistance of an intermediary. The role of the intermediary is to convey questions from court to you in an understandable manner.</p> <p>Private testifying room/closed court services: If you are an adult witness, the law allows you to testify from a private testifying room via the closed-circuit TV system if you feel more comfortable to do so. This will ensure that you do not need to be in the physical presence of the accused when testifying.</p> <p>Private waiting rooms for adult and child victims: The child witness room has standard furniture specifically designed to meet the needs of traumatised children. It also provides a play area, reading centre, and a child's bed-sofa for resting. The adult waiting room is also furnished to make the court experience more comfortable for victims. Information services are available at the private waiting rooms for victims, mainly to inform you of your rights and the available court services. The information is offered in the form of educational booklets, DVDs, and in braille.</p> <p>Witness fee services: The department provides witness fees to cover return travelling costs and food while in court.</p> <p>Government of South Africa showed commitment to ensure the Budgetary allocations for victim empowerment services in October 2019 when President Ramaphosa announced the introduction of the GBVF Emergency Response Action Plan (ERAP) – funded by a reprioritized budget of R1.6 billion. Over a period of 6 months, i.e. from 1 November 2019 to 31 March 2020, different government stakeholders and civil society organisations were tasked to implement robust interventions to significantly reduce the levels of violence against women and children.</p> <p>In February 2021, President Cyril Ramaphosa launched a private sector-led, multi-sectoral Gender-Based Violence and Femicide (GBVF) Response Fund aimed at supporting the implementation of the National Strategic Plan (NSP), and the wider response in the country. The fund allocates financial support to</p>

<i>Findings</i>	<i>Responses</i>
(c) 2 (c) and (e), 10, 13 and 16, for failing to ensure women's adequate protection in divorce, child custody and maintenance proceedings, social protection as well as free education for their children to empower victims of domestic violence to leave abusive relationships.	<p>programmes that are based on the National Strategic Plan's six pillars.</p> <p>In the 2020/21 financial year, the NPA received R16 Million from the CARRA funding for the TCC project for the next three (03) years. Amongst others, it will be used for establishment, maintenance and upgrade of existing sites, training, etc.</p> <p>Section 11 of the Matrimonial Property Act of 1984 (Act No. 88 of 1984) repealed the common law rule by which a husband obtained the marital power over the person and property of his wife, thus providing protection in divorce. Spouses can choose the matrimonial regime they prefer: community of property; out of community of property; or "accrual" system. In the absence of an explicit choice, community of property applies whereby spouses equally own and administer common property.</p> <p>The implementation of the Children's Act, Act 38 of 2005 defined the parental rights and responsibilities that parents or other parties may have, and confers equal and joint guardianship status on parents of children born from marriage.</p> <p>The child's best interest is a constitutional right of every child. In all matters concerning a child, the best interests of the child are paramount. The Act provides a list of factors that have to be considered when determining a child's best interest. Historically, child custody was usually granted to the mother, with the father having access or visitation rights. The system was based on the traditional view of the mother as the primary caregiver, and the language reflected the power that was so often at the heart of family conflicts.</p> <p>The intention of the Children's Act was to put an end to custody battles that could do more harm to a child than the divorce itself. By putting the interests of the child first, parents have to put their own egos aside and focus on their mutual responsibility to care for the child. The Act also recognises the importance of fathers in a child's upbringing. There is far more emphasis on shared care and an agreed approach to parenting than the historical convention of maternal custody and paternal visitation conceded.</p> <p>Section 33(2) of the Act does require parents to agree on a parenting plan before seeking the intervention of the court if they are unable to agree on the discharge of their responsibilities and rights. They can seek help from a family advocate, social worker or psychologist in drawing up the plan.</p>

<i>Findings</i>	<i>Responses</i>
	<p>In 2021, The Department of Justice and Constitutional Development announced an introduction of a system to trace maintenance defaulters to accelerate the finalisation of maintenance applications.</p> <p>The new tracking system will be use various online databases and “information hubs” to trace maintenance defaulters. These will enable the courts to finalise more cases and assess the finances of parents who should be paying child support. The Department will use Companies and Intellectual Property Commission (CIPC) registrations, cellular phone numbers registered with network service providers, information from credit bureau, vehicle registrations, as well as other paper trails to find maintenance defaulters.</p> <p>The new system will be able to link defaulters to their businesses and track their assets among other things. This will assist the court to determine the financial positions of defaulters and oblige them to take care of their children accordingly. The Department has thus used the provisions of the Maintenance Amendment Act of 2015, Section 6 of the Maintenance Act of 1998 and Section 28 (2) of the Constitution of the Republic of South Africa to create the system”.</p> <p>Government of South Africa has introduced the following policies and programmes to ensure access to free basic education:</p> <p>No-fee School Policy</p> <p>South Africa began with the ‘no-fee’ school policy (NFSP) implementation on 01 January 2007. The policy abolished mandatory school fees in public ordinary schools to make basic education available to poor learners in the country. In 2019, 87% of schools were no-fee schools that accommodated 79% of learners. These no-fee schools provide much-needed relief for households, as government funding removes the need for parents to pay fees at such schools.</p> <p>National School Nutrition Programme</p> <p>The National School Nutrition Programme is the government programme that provides one nutritious meal to all learners in poorer primary and secondary schools. The objective is to provide nutritious meals to learners so as to improve their ability to learn. National School Nutrition Programme (NSNP) that feeds around nine million learners, is a foundation of social assistance and poverty mitigation and contributed greatly to ensuring that learners in our country have access to quality education.</p>

C. Principal findings of violations under the Convention

111. In the light of the aforementioned, the Committee finds that South Africa has violated the following articles of the Convention: 1, 2 (f), 3, 5 (a), 10 (c) and (h) and 16; 2 (b), (e) and (f), read with 5 (a), 15 and 16; 2(b), (c) and (e), read with 5 (a) and 15; 1 and 2 (b), (c), (e) and (f), read with articles 5 (a), 12 and 15; 1 and 2 (c), (d) and (e), read with articles 3, 5 (a), 12 and 15; 2 (c), 5 (a) and 15; 2 (c) and (e), 11 (c), 12 and 15; and 2 (c) and (e), 10, 13 and 16. The content of these articles is further developed in the Committee's general recommendations Nos. 18; 19; 21; 29; 31; 33; and 35.

D. Grave or systematic nature of the violations

115. The Committee assesses the gravity of violations in the State party in light of the suffering experienced by women and girls subjected to domestic violence. It notes the physical and psychological harm caused by domestic and sexual violence especially in child and forced marriages, as well as the adverse impact such violence may have on women's and girl's right to education, economic empowerment, sexual and reproductive health and rights, and equal rights in marriage and family relations. The situation gives women and girls who are victims of domestic violence two options: (a) to remain in the abusive domestic

National Learner Transport Policy

Government of South Africa approved the national learner transport policy in 2015. Currently, the policy is in the implementation mode.

These and many other social protection measures are introduced to support the implementation of free basic education in South Africa,

South Africa has enacted legislation to promote equality. The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) ("PEPUDA") was passed into law in 2000 to give effect to section 9 of the South African Constitution. It is enacted to prevent and prohibits unfair discrimination and harassment, to promote equality and eliminate unfair discrimination as well as to prevent and prohibit hate speech on a wide range of categories. PEPUDA prohibits the state and private parties from unfairly discriminating against anyone and from subjecting individuals to hate speech. The Act also imposes obligations on the state and on private parties to promote the achievement of equality.

The object of PEPUDA Act is also to facilitate further compliance with international law obligations including treaty obligations in terms of amongst others the CEDAW convention.

The introduction of the Hate Crime bill in South Africa is one of the legislative interventions introduced to address the increasing number of incidents motivated by prejudices, in the form of hate crimes and hate speech, and to assist persons who are victims thereof; and creates the offences of hate crimes and hate speech and puts in place measures to prevent and combat these offences.

The Government of South Africa is implementing the National Strategic Plan on Gender Based Violence and Femicide (2020-2030). The NSP GBVF is implemented in six Pillars broken down into five years pillars. Pillar five of the National Strategic Plan on Gender Based Violence and Femicide focuses on Economic Power. Over the next 5 years, the implementation will focus on the following strategic interventions:

Accelerated initiatives that address women's unequal economic and social position, through access to

<i>Findings</i>	<i>Responses</i>
relationship; or (b) to leave the relationship, at the risk of retaliation, separation from their children, poverty, stigmatization, and with limited access to justice, protection and support services. In either case, victims often find themselves without effective protection from further violence. Victims of domestic violence must thus make a choice between staying in the abusive relationship and enduring the social, economic and safety consequences of leaving it. In both cases, they are at risk of violations of their rights.	<p>government and private sector procurement, employment, housing, access to land, financial resources and income other generating initiatives;</p> <p>Safe workplaces that are free of violence against women and LGBTQIA+ persons, including but not limited to sexual harassment;</p> <p>Demonstrated commitment through policy interventions, by the South African state, private sector and other key stakeholders to eliminate the impact of economic drivers of GBV;</p> <p>Strengthened child maintenance and related support systems to address the economic vulnerability of women.</p>
116. The Committee finds that the State party is responsible for:	
(a) Grave violations of rights under the Convention, considering that the State party has failed to protect a significant number of women and girls from domestic violence and to provide adequate access to justice, protection and support to enable women to leave abusive domestic relationships, thereby exposing them to or unnecessarily prolonging their severe physical and mental suffering;	The finding of grave violation is contestable as South Africa's criminal justice system provides for a number of measures aimed at protecting women and girls from domestic violence. The committee's over reliance on the inputs by the NGO's and stakeholders without subjecting these inputs to scrutiny based on legislative and programmatic interventions that are being implemented is a cause for concern.
(b) Systematic violations of rights under the Convention, considering that the State party has knowingly omitted to take effective measures:	As previously stated the three key GBV Bills have been passed by Parliament as part of government's promise to GBV activists and women. The three amendment Bills are designed to fill the gaps that allow some perpetrators of these crimes to evade justice and to give full effect to the rights of our country's women and children. The sad reality is that many survivors of gender-based violence have lost faith in the criminal justice system.
(i) To address patriarchal attitudes and social norms that legitimize domestic violence and to destigmatize victims;	The Criminal Law (Sexual Offences and Related Matters) Amendment Act, will create a new offence of sexual intimidation, extends the scope of incest, and widens the reporting duty of those who suspect sexual offences committed against children.
(ii) To specifically criminalize domestic violence and femicide, enforce and monitor civil remedies against perpetrators, repeal provisions that tolerate harmful practices giving rise to domestic violence, enforce general criminal law provisions punishing domestic violence, and prosecute ex officio domestic violence and rape;	With the amendment, the National Register for Sex Offenders will include information on all sex offenders and not just the particulars of those convicted of sex crimes committed against children or persons with mental disabilities. Offenders will also remain on the register for a longer period and the register will be publicly available.
(iii) To establish appropriate institutional arrangements, oversight and accountability measures to protect victims of and prevent domestic violence;	The Criminal and Related Matters Amendment Bill will intensify the granting of bail to perpetrators of GBV and femicide. The Bill will also expand the
(iv) To remove the economic and social barriers faced by victims of domestic violence and create a supportive environment that enables victims to obtain access to justice.	

*Findings**Responses*

117. The Committee considers that the State party has knowingly accepted these omissions, which are not a random occurrence, as evidenced by the extremely high levels of domestic violence in the State party. They constitute elements of systematic violations of rights under the Convention.

offences for which minimum sentences must be imposed.

One of the significant amendments to the Domestic Violence Act is that the Act now provides for the imprisonment or fining of persons with knowledge, reasonable belief or suspicion that an act of domestic violence has been committed against a child, a person with disability or an older person and fails to report it to a social worker or police. Members of the South African Police Service can also be reported to the Civilian Secretariat for Police Service for failing to comply with the Act.

On 18 September 2019, His Excellency President Cyril Ramaphosa expressed the country's commitment to address the scourge of gender-based violence and femicide that have reached endemic proportions in South Africa. The President also announced a 5-point emergency plan, which is to be implemented without delay, to tackle gender-based violence. One of the points is enhancing the legal and policy framework in order to strengthen the response of the State to this problem.

When announcing the introduction of the three key GBV Bills in September 2020, the President emphasised that the women of South Africa have had enough of lukewarm actions that do not address one of the most fundamental rights of all – to live in freedom from fear. He further stated that these proposed amendments are an appropriate response to a groundswell of dissatisfaction at the way survivors of gender-based violence have been treated by the criminal justice system in the past. This government and its partners will make good by the women of South Africa. He ensured the country that the government will not let the women down.

The President further acknowledged that people are angry that many perpetrators of such serious crimes are exploiting legal loopholes to avoid imprisonment and are frustrated that sentencing is often not proportionate to the crimes. Therefore the amendments impose new obligations on law-enforcement officials and on our courts to address these loopholes.

VIII. Recommendations

A. Legal and institutional framework

118. The Committee recommends that the State party:

<i>Findings</i>	<i>Responses</i>
(a) Specifically criminalize and establish penalties commensurate with the gravity of all forms of domestic violence and femicide and introduce ex officio prosecution with the possibility of issuing a final warning rather than sentencing the perpetrator when a victim withdraws her complaint upon reconciliation;	This is provided for in the legislative acts and is also carried out by the courts of law in the country.
(b) Harmonize the definition of GBV across all legislation, identify the specific responsibilities of governmental departments to address domestic violence and require them to provide budgetary benchmarks or dedicated resources for gender-responsive budgeting;	The Department of Social Development has developed the Victim Support Services Bill that is aimed at providing services that are victims centred. The VSS Bill has identified and outline specific responsibilities of various government departments. The Bill will be costed for implementation.
(c) Provide dedicated funding for the implementation of the National Strategic Plan on GBV and Femicide and ensure that the GBV and Femicide Council is adequately resourced, independent and has a strong mandate;	<p>The current budgeting processes implemented by Provincial Treasury at a Provincial level do not include gender responsive budgeting. The allocation of budgets towards gender mainstreaming programs are performed at an Institutional level.</p> <p>Gender responsive budgeting, however, is in its initial stages with National Treasury having started the roll-out of budget tagging, with the current focus on Climate tagging with a case study currently being rolled out in a few provinces only.</p> <p>The lessons learnt from this will in future be used for tagging any expenditure that departments wish to tag, including gender tagging.</p> <p>Information received from Office of the Premier indicates that two provinces, namely Gauteng and Free State, have started some form of gender budget tagging and Provincial Treasury will engage with these provinces to see if this method is user friendly and could be replicated in KZN. The KZN Office of the Premier has a dedicated funding for the implementation of the National Strategic Plan on GBV and Femicide and ensure that the GBV since a 5-year plan has been made and approved by Cabinet. At the moment, there is a Provincial GBVF Task Team Committee that works on the implementation of the GBV programs in the province, using resources from departments.</p>
(d) Amend section 26(1) of the Marriage Act and section 3 of the Recognition of Customary Marriages Act to raise the minimum age of marriage to 18 years for both women and men without exceptions, empower courts to invalidate child and forced marriages, prohibit 'ukuthwala' involving girls and payment of bride prices, and enforce the prohibition of child and forced marriage, particularly in rural areas and within traditional communities;	This process has been initiated by the Minister for Home Affairs as the custodian of the Marriage Act. There is a process of harmonising the different acts on marriage into one act in which the minimum age of marriage is proposed at 18 years. This is in the policy that is currently consulted on towards the draft Single Marriage Bill

<i>Findings</i>	<i>Responses</i>
(e) Repeal provisions of the Recognition of Customary Marriages Act that allow, tolerate or condone harmful practices such as polygamy and ukuthwala and amend the Act to define the criteria for ascertaining the free, full and informed consent of the women concerned;	<p>COGTA would provide necessary capacity building support to run workshops and awareness campaigns on ukuthwala, forced child marriages.</p> <p>KZN Office of the Premier, NPA, CGE, University of KwaZulu Natal supports a community-based project against ukuthwala under uThukela District. Young women developed a community protocol on combating and reporting incidents of ukuthwala. The protocol has been presented to the Executive Council.</p> <p>The CGE in partnership with civil society organizations hosted workshop with Traditional leadership of uThukela engaging on the historic and harmful practice of ukuthwala</p>
(f) Adopt the Gender Equality Bill and ensure that it defines and prohibits all forms of direct and indirect forms of discrimination against women and provides stronger mandates to the national machinery for the advancement of women to regulate service provision and the CGE to oversee and hold the government accountable for the implementation of gender equality legislation.	<p>This Bill is currently redrafted and will be consulted upon in the 2022/23 period.</p>
B. Law enforcement	
119. The Committee recommends that the State party:	
(a) Exercise due diligence to prevent, investigate, punish and provide effective remedies to victims of domestic violence;	<p>Part I of Schedule 2 to the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997) (the “Minimum Sentences Act”), makes provision for minimum sentences for certain serious offences, including murder, rape and compelled rape. In terms of section 51(1) of this Act, a regional court or the High Court must sentence a person convicted of an offence in Part I of Schedule 2 to the Act, to life imprisonment.</p> <p>Clause 15 of the Criminal and Related Matters Amendment Bill substitutes the offence of murder, to include the following offences thereunder in Part I of Schedule 2:</p> <p>(a) The murder of a person under the age of 18 years; and</p> <p>(b) the death of the victim which resulted from physical abuse or sexual abuse as contemplated in paragraphs (a) and (b) of the definition of “domestic violence” in section 1 of the Domestic Violence Act, 1998, by the accused who is or was in a domestic relationship, as defined in section 1 of that Act, with the victim.</p>

<i>Findings</i>	<i>Responses</i>
(b) Ensure that perpetrators of domestic violence are not released on bail, are prosecuted and receive penalties commensurate with the gravity of the offence, as well as adequate correctional and rehabilitation services to prevent recidivism;	<p>The Criminal and Related Matters Amendment Bill amends section 59 of the Criminal Procedure Act to provide that an accused may not be released on bail before his or her first appearance in a lower court in respect of an offence against a person in a domestic relationship, as defined in section 1 of the Domestic Violence Act, 1998 (Act No. 116 of 1998).</p> <p>Section 59A of the Criminal Procedure Act, 1977, provides that a Director of Public Prosecutions or an authorised prosecutor may, in respect of the offences referred to in Schedule 7 to that Act and in consultation with the police official charged with the investigation, authorise the release of an accused on bail. The offences mentioned in Schedule 7, which qualify for release on bail by a prosecutor, include public violence, culpable homicide, assault involving the infliction of grievous bodily harm, arson, robbery, housebreaking, theft involving amounts that do not exceed R20 000, malicious injury to property and the possession of drugs.</p> <p>However, the Criminal and Related Matters Amendment Bill amends section 59A of the Criminal Procedure Act, 1977, to exclude an offence against a person in a domestic relationship, as defined in section 1 of the Domestic Violence Act, 1998; or section 18(1)(a) of the Protection from Harassment Act, 2011 from the ambit of the application of section 59A. The accused must be kept in custody until he or she appears in court, whereafter he or she may, in terms of section 60 of the Criminal Procedure Act, 1977, make an application to the court to be released on bail.</p>
(c) Provide mandatory, recurrent and effective capacity-building for the judiciary, law enforcement officers, forensic medical experts, health care personnel and social workers on all forms of domestic and sexual violence, the strict application of the DVA and the SOA, gender-sensitive questioning, proper case management and collection and use of forensic evidence, and their role in protecting, encouraging and assisting victims to report cases of domestic violence;	<p>Section 40(1)(b) of the Criminal Procedure Act, 1977, empowers a police official to arrest, without a warrant of arrest, a person whom he or she reasonably suspects of committing an offence referred to in Schedule 1 of the Act. Section 42(1)(a) contains a similar provision empowering a member of the public to arrest, without a warrant, a person who commits in his or her presence or whom he or she reasonably suspects of committing an offence referred to in Schedule 1 of the Act.</p> <p>In terms of section 18 of the Domestic Violence Act, the National Director of Public Prosecutions referred to in section 10 of the National Prosecuting Authority Act, 1998, in consultation with the Minister of Justice and after consultation with the Directors of Public Prosecutions, must determine prosecution policy and issue policy directives regarding any offence arising from an incident of domestic violence.</p>

<i>Findings</i>	<i>Responses</i>
(d) Prosecute all cases of rape ex officio, including when the victim is 16 years or older or withdraws her complaint against the perpetrator;	<p>Part I of Schedule 2 to the Criminal Procedure Act provides that the offence of rape—</p> <p>(a) when committed—</p> <p>(i) in circumstances where the victim was raped more than once, whether by the accused or by any co-perpetrator or accomplice;</p> <p>(ii) by more than one person, where such persons acted in the execution or furtherance of a common purpose or conspiracy;</p> <p>(iii) by a person who has been convicted of two or more offences of rape or compelled rape, but has not yet been sentenced in respect of such convictions; or</p> <p>(iv) by a person, knowing that he has the acquired immune deficiency syndrome or the human immunodeficiency virus, is punishable by life imprisonment.</p> <p>Clause 15 of the Criminal and Related Matters Amendment Bill also provides for circumstances where the offence of rape is punishable by life imprisonment, where the victim of the offence is a vulnerable person. In terms of this amendment—</p> <p>(a) the age of a vulnerable person is increased from 16 years to 18 years; and</p> <p>(b) a new item is inserted to extend the application of Part I of Schedule 2 to a victim who is or was in a domestic relationship, as defined in section 1 of the Domestic Violence Act, 1998, with the accused.</p>
(e) Provide systematic training to ensure that law enforcement officers investigate domestic violence cases swiftly, independently and thoroughly, including when a victim withdraws her complaint upon reconciliation with the perpetrator;	The Employee Health and Wellness for SAPS provides trauma counselling to members exposed to traumatic situations. There is a debriefing programme in place that is being carried out
(f) Provide SAPS with the necessary skills and means, including sufficient vehicles, IT tools and training, to serve, enforce and monitor protection orders, accompany victims to collect personal belongings and confiscate firearms from perpetrators;	SAPS is provided with necessary skills and training, to serve, enforce and monitor protection orders, accompany victims to collect personal belongings and confiscate firearms from perpetrators. This is part of the SAPS training.
(g) Strengthen accountability mechanisms to punish non-compliance by SAPS officers with their duty to investigate and their obligations under the DVA, corruption, or collusion with perpetrators;	Independent Police Investigative Directorate (IPID) has been established to fulfil an oversight role over South African Police Service (SAPS) and Municipal Police Service (MPS). IPID conducts investigations into police criminality, particularly cases of death, rape, and corruption, including crimes against vulnerable groups such as women, children, and persons with disabilities.

<i>Findings</i>	<i>Responses</i>
<p>(h) Provide confidential debriefing spaces and psychological support to SAPS officers undergoing trauma, and incentives to register domestic violence cases by including GBV indicators in their performance evaluation plans;</p> <p>(i) Introduce an electronic case management system and provide training on its use to prevent the loss of dockets</p>	<p>The E-docket is in place. All dockets are scanned and stored electronically. All data captures are trained on E-docket</p>
C. Access to justice	
120. The Committee recommends that the State party:	
<p>(a) Remove barriers to justice faced by women and girls, including by providing institutionalized affordable or, if necessary, free legal aid for domestic violence victims, irrespective of the perpetrator's legal representation, and reimbursement of transportation costs, and by funding organizations providing legal assistance to victims;</p> <p>(b) Require court clerks to assist victims to fill out application forms for protection orders, inform them about the need to show imminent harm and to appear on the return date for obtaining an eviction or a final protection order, as well as to report recurring violence;</p> <p>(c) Train magistrates and clerks to formulate protection orders that effectively protect victims and prohibit further acts of domestic violence, ensure that applicants are received outside court working hours, referred to victim support services and that they can make applications online and in victim-friendly facilities;</p> <p>(d) Ensure that police officers located in TCCs are available 24/7, increase the number of adequate victim friendly facilities in police stations and ensure that police officers and volunteers undergo training on gender-sensitive protocols;</p> <p>(e) Ensure that victims of domestic violence have access to effective remedies, including rehabilitation, and that cases are not referred to alternative dispute resolution procedures or traditional courts prioritizing mediation;</p>	<p>Effective capacity-building for the judiciary has been conducted by NPA for law enforcement officers, forensic medical experts, government officials, Health care personnel and social workers on all forms of domestic and sexual violence. There is a structured DVA course that is presented by the SAPS Human Resource. Development component. It has been running over 5 years now. Regular inspections are conducted in the dockets to ensure compliance.</p> <p>Traditional Councils are structures that assist community members for various problems they have. If there is a need for the council to address the matter, it is done. COTGA would provide necessary support on victims of domestic violence to have access to effective remedies, including rehabilitation through working with DSD and DOH and other relevant departments regarding the matter at hand.</p>

<i>Findings</i>	<i>Responses</i>
<p>(f) Create a supportive environment to encourage victims to report incidents of domestic violence by:</p> <p>Destigmatizing victims, dismantling commonly held victim-blaming beliefs, protecting victims from threats and retaliation by perpetrators before, during and after legal proceedings, and imposing strict penalties for breaches of protection orders;</p> <p>Ensuring victims' access to forensic psychiatric evidence, especially in rural areas, and fast-tracking forensic medical examinations at day hospitals;</p> <p>Ensuring that court proceedings are not unduly prolonged, avoiding direct confrontation of victims with perpetrators, eliminating judicial gender bias and raising awareness among the judiciary and police of the need to give due weight to women's and girls' testimonies as parties and witnesses;</p> <p>Ensuring that courts adequately take into account domestic violence when determining child custody or visitation rights;</p>	<p>It is widely recognised that a child witness must be protected from undue mental stress or suffering while giving evidence. Evidence through intermediaries is widely recognised as an effective procedure in criminal proceedings to protect a child witness or complainant. Currently, the intermediary service is available to a child witness or complainant in criminal proceedings. The intermediary service is not available to any other witness or complainant who may be exposed to similar undue mental stress, trauma or suffering. The intermediary service is also not available in respect of any proceedings, other than criminal proceedings.</p> <p>The new sections 51A and 37A inserted in the Magistrates' Courts Act, 1944 (Act No. 32 of 1944) and the Superior Courts Act, 2013 (Act No. 10 of 2013) respectively, aim to extend the intermediary service—</p> <p>(a) firstly, to a witness who suffers from a physical, psychological, mental or emotional condition, and to older persons, as defined in the Older Persons Act, 2006 (Act No. 13 of 2006); and</p> <p>(b) secondly, to proceedings other than criminal proceedings.</p> <p>Section 48 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 places an obligation on persons who submit applications for fostering, kinship caregiving, temporary safe caregiving, adoption of children or curatorship to disclose that they have been convicted of sexual offences. Clause 13 of the Criminal Law (Sexual Offences and Related Matters) Amendment Bill, 2020 therefore amends section 48 of the principal Act by introducing an offence in respect of the non-disclosure of previous convictions for sexual offences in cases of child custody.</p>
<p>(g) Establish a centralized electronic case management system in the judiciary to ensure effective and efficient handling of cases of domestic violence.</p>	<p>Section 42 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 provides for the establishment of a National Register for Sex Offenders containing particulars of persons convicted of any sexual offence against a child or a person who is mentally disabled or are alleged to have committed a sexual offence against a child or a person who is mentally disabled and who have been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977.</p>

<i>Findings</i>	<i>Responses</i>
D. Victim support	The Minister of Justice must designate a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, as the Registrar of the National Register for Sex Offenders.
121. The Committee calls upon the State party to:	
(a) Increase the number of and provide sufficient funding to TTCs to ensure that they can operate 24/7, provide adequate medical and psychosocial support to victims of sexual violence, particularly in rural areas, and train social workers on trauma counselling;	<p>The GBV Command Centre and KZN DSD call Centre operates for 24 hours a day in seven days per week and has the capacity to receive telephone calls from members of the public in need of counselling, conduct intensive telephone counselling sessions and refer the cases for psycho-social service providers for follow up and continuation with psycho-social support by local service office Social Workers.</p> <p>DSD also funds the Lifeline Organisation who employs Social Workers who render psychosocial support services to victims at 92 Police stations, all 8 Thuthuzela Care Centres and 13 Crisis Care Centres in all Districts.</p>
(b) Adopt the Victim Support Services Bill, define VES as mandatory services, adequately fund NGO-run shelters and safe houses, increase the daily benchmark allocation per resident using the same funding model in all provinces, remove bureaucratic obstacles to DSD subsidies and the requirement for NGOs to have infrastructures in at least four provinces, and facilitate the acquisition by NGOs of the land where their shelter premises are based;	<p>The Department is currently refining the VSS Bill after it was gazette in the year 2020 and received public comments were processed and incorporated into the VSS Bill. The VSS Bill will be tabled into Cabinet for approval to table into Parliament. The VSS Bill aimed to regulate the victim support services and putting the victim at the centre of the Criminal Justice System.</p> <p>The Department has also developed the Sector Funding Policy (SFP) model to strengthen adequate funding for the NGOs, currently the Department is finalising the development of guidelines for implementing the SFP. The Victim Support Services Bill has been consulted. The process has commenced with DSD through the review of the sector funding policy. Stakeholders will also be consulted.</p> <p>National Consultation on the Intersectoral Shelter Policy for Victims of Crime and Violence was held virtually on 09 March 2021, 33 stakeholders participated.</p> <p>There has been no progress on the acquisition of land where shelters can be based but the process of establishing two Shelters in Ugu and King Cetshwayo District in partnership with the Department of Public Works has commenced.</p>

<i>Findings</i>	<i>Responses</i>
(c) Ensure that shelters and safe houses have sufficient capacity to receive victims of domestic violence, including those with psychiatric conditions, LGBTI victims, and their children, provide dedicated allocations for skills development in shelters in all provinces, and fully implement the recommendations in the 2019 CGE report on the 'State of Shelters in South Africa';	The Department of Social Development has developed the Intersectoral shelter policy for victims of crime and violence in order to standardise quality of services rendered at the shelters across the country. The aim of the Intersectoral shelter policy is to ensure that shelters across the country are inclusive in the accommodation of victims, this covers LGBTI victims and children. The policy addresses the recommendations of the 2019 CGE report on the Status of Shelters in South Africa. Furthermore, the same policy advocates for the skills development to be implemented in all shelters for economic empowerment of women.
(d) Ensure that survivors of domestic violence and their children have access to affordable housing, free education, long-term psychosocial support, loans, credit and other basic services and financial support, and are economically empowered to gain economic autonomy to leave and recover from abusive relationships;	<p>The Department of Social Development as lead in the implementation of NSP on GBVF Pillar 4 (Response, Care, Support and Healing) ensure the provision of psychosocial support services to victims of GBV beyond the Shelter. The Intersectoral Sheltering Policy mandates the re-integration of GBV victims to an extent of involving other relevant stakeholders within the Sector to contribute to healing of the victims.</p> <p>The school fee exemption for learners is based on a National Gazette and national policy as per the Department of Basic Education. Each parent applies for a school fee exemption and the KZN Department of Education applies the policy to each case based on the merit of application. The policy takes into consideration the income of both parents who have registered the learner at the school, however each situation is investigated and proper consideration is given by the school and SGB. If the parent is unhappy with the outcome s/he can appeal a reconsideration at the circuit/district office.</p> <p>Lifeline organisations are funded to provide economic empowerment opportunities to women and these include short courses in sewing, baking, hair and nail care and basic computer literacy. These women are recruited from their current caseloads and attend the training on a daily basis. Lifeline also provides taxi fare for the women on a daily basis.</p>
(e) Ensure women's economic protection upon divorce, reduce the length of divorce proceedings, enforce maintenance obligations and provide adequate child support to mothers leaving an abusive relationship.	<p>In South Africa, marriage is governed by different laws:</p> <p>(a) The Marriage Act, 1961 (Act No. 25 of 1961)</p> <p>(b) The Matrimonial Property Act of 1984 (Act No. 88 of 1984)</p> <p>(c) The Recognition of Customary Marriages Act of 1998 (Act No. 120 of 1998)</p> <p>(d) The Civil Union Act, 2006 (Act No. 17 of 2006)</p>

<i>Findings</i>	<i>Responses</i>
	<p>The Recognition of Customary Marriages Act of 1998 (Act No. 120 of 1998) repealed the Black Administration Act of 1927, which considered customary wives to be minors subject to the guardianship of their husbands. In terms of section 3(1) both prospective spouses must be over 18 years old and must both consent to be married under customary law. Section 6 provides that both spouses are recognized equal status and equal capacity to acquire assets and to dispose of them, to enter into contracts and to litigate. In terms of section 7 customary marriages entered into after the commencement of the Act create a community of property regime, unless the spouses agree differently, while existing marriages remain governed by customary rules. Section 8 provides that divorce may be dissolved by a decree of divorce issued by a court on the ground of the irretrievable breakdown of the marriage, when it has reached such a state of disintegration that there is no reasonable prospect of the restoration of normal marriage relationship. Upon divorce there is equal distribution of the marital property and court orders address issues of child maintenance and spousal support.</p> <p>Furthermore, the Maintenance of Surviving Spouse Act of 1990 (Act No. 27 of 1990) and the Intestate Succession Act of 1987 (Act No. 81 of 1987) are gender-neutral and both recognise women's inheritance rights (10). Sections 6 and 8(c) of the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 prohibit policies and practices which discriminate against women in the inheritance of family property and any inequitable traditional, customary or religious practice which impairs the dignity of women and undermines equality between women and men.</p>

E. Prevention and awareness-raising

122. The Committee recommends the State party:

(a) Adopt, effectively implement and adequately fund preventive measures to challenge and dismantle the root causes of domestic violence, including patriarchal attitudes and discriminatory stereotypes that perpetuate or legitimize domestic violence and harmful practices giving rise to such violence and confine it to the private sphere, and combat the culture of silence and impunity surrounding domestic and sexual violence;

In KZN, 183 Social Workers are employed as a resource that is dedicated and focused on the response to the scourge of Gender Based Violence. These Social Workers have been placed at 92 Police stations, all 8 Thuthuzela Care Centres and 13 Crisis Care Centres in all Districts to provide psychosocial support to all victims of crime and violence. The Social Workers are engaged in prevention and awareness programmes on social ills and in promoting the involvement of men as active partners for women and girl's human rights and

<i>Findings</i>	<i>Responses</i>
(b) Implement and financially support civil society organizations conducting awareness-raising programmes for the general public, political, traditional and religious leaders, initiators, the CNL and the media to promote understanding of the criminal nature of all forms of domestic violence, including psychological and economic violence, rape and harmful practices and the incompatibility of certain cultural practices with women's rights, and address the stigma faced by victims;	<p>as agents of change in the fight against GBV and HIV and AIDS.</p> <p>The Department of Social Development provides financial support to Civil Society Organizations with a focus on education and awareness raising on Gender Based Violence and Femicide (GBVF).</p> <p>In addition, the Department is launching campaigns targeting traditional and religious/Interfaith leaders in the fight against GBVF at local level. The intention of these campaigns is to address harmful practices and norms both from culture and religion.</p> <p>The KZN Department of Social Development funds a total of sixty organisations that conducts awareness raising programmes for the general public. The MEC held a dialogue with traditional leaders and healers on 06 November 2021 in order to gain an understanding of their in social mobilisation campaigns to address community cultural norms, values and social practices pertaining to GBV in the Province and ascertain their understanding and knowledge on GBV in order to develop their capacity on sexual and gender-based violence. There will be ongoing discussions and engagements with Traditional Courts as an important platform for addressing and adjudicating gender-based violence cases in communities and need to be revived or strengthened where they already exist.</p>
(c) Strengthen educational programmes on women's rights and gender equality at all levels of education to eliminate stereotyped gender roles and sensitize girls and boys on the harm caused by GBV;	<p>The Department of Social Development is implementing an integrated campaign at Institution of Higher learning to eliminate stereotyped gender roles and sensitise youth on the harm caused by GBV.</p>
(d) Raise awareness among police officers, social workers, teachers and lecturers of their duty to report child abuse in their communities and sexual violence, including intimate partnership violence, at universities, respectively;	<p>The integrated campaigns at Institutions of Higher learning are also aimed at creating support system for learners and promote/encourage reporting of GBV incidences by both lecturers and learners.</p>
(e) Implement sustained drug abuse and alcoholism treatment and education programmes in communities and schools.	<p>Commemoration of the International Day against Drug Abuse and Illicit Trafficking</p> <p>South Africa as a signatory to the United Convention, annually commemorates the International Day against Drug Abuse and Illicit Trafficking to create awareness on the dangers of alcohol and drug abuse and encourage communities to take action in fighting the scourge of substance abuse.</p> <p>In 2020/21 financial year due to COVID19 pandemic, the department commemorated the International Day against Drug Abuse and Illicit Trafficking through a Substance Abuse webinar under the national theme "Value yourself and make healthy choices against</p>

<i>Findings</i>	<i>Responses</i>
	<p>alcohol, tobacco and drug abuse to minimize the spread of COVID-19. The highlighted the harmful effects of substance abuse as well as the link between substance abuse and COVID-19.</p> <p>The department also provided information sessions on the risk associated with alcohol drinking during pregnancy targeting youth and women of childbearing age. The initiative was done to eliminate and minimise the risk of Foetal Alcohol Syndrome. Furthermore, pregnant women who drink alcohol were provided with brief counselling and referred for further intervention.</p> <p>Education and awareness at Institutions of Higher Learning.</p> <p>The Department implemented National Anti-Substance Abuse Awareness campaigns to create awareness on the harmful effects of substance abuse, gender-based violence and social crime in institutions of higher learning, schools and communities.</p> <p>Festive Season Campaign</p> <p>This campaign serves to remind communities about the dangers of alcohol and substance abuse during festive season because many lives are lost in road accidents caused by drinking and driving. Young people get involved in irresponsible sexual behaviour which could lead to different sexual transmitted infections and unwanted pregnancies because of the abuse of alcohol and drugs. The campaign targets shopping malls, taxi and bus ranks, train stations, toll gates, beaches, and also participating in door-to-door campaigns, fun walks, roadblock blitz in partnership with other relevant stakeholders in the field of substance abuse.</p> <p>Conference on substance abuse and family related interventions</p> <p>It was held on 31-02 November 2019 in Gauteng Province (Birchwood Conference Centre). The theme of the conference: “The impact of substance abuse on Families”. The main objective was to create a platform for delegates to share information and views regarding substance abuse challenges and dynamics affecting families. The target of the conference was 350 inclusive of Political leaders, Government departments, NGO’s, CBO’s, FBO’s, Research Institutions, Disability Sector, Treatment centres, African Union, SADC Region and International countries. Twelve (12) resolutions were adopted out of</p>

<i>Findings</i>	<i>Responses</i>
	<p>the conference. These resolutions are implemented through the National Drug Master Plan 2019-2024.</p> <p>Ke Moja Drug Awareness Programme</p> <p>The Department of Social Development is continuously implementing the Ke Moja Drug Awareness Programme. Ke Moja is a national programme aimed at raising awareness among South African communities on the dangers of drug abuse and providing alternative healthy lifestyles through education and counselling. The programme has since been evaluated and reviewed in 2011/12 to enhance its content and also accommodate emerging trends in the field of substance abuse. The target for the programme includes children, youth, parents and care givers. To date, five provinces has been capacitated on the reviewed programme and the remaining four provinces will be capacitated in 2021/22 financial year.</p> <p>Siyalulama Outreach Programme</p> <p>The purpose of this programme is to take services to people who are affected by the Substance Use Disorders and who cannot take initiative in reaching out for such services. During 2021/22 financial year, the outreach programme was conducted at Hammanskraal,</p> <p>Bronkhorspruit, Tembisa, Dobsonville, Charlestown and Newcastle. The Department will continue with the outreach programme during 2021/22 financial year</p> <p>Treatment Programme</p> <p>The department has adopted the Universal Treatment Curriculum (UTC) since 2019. The aim of the curriculum is to assist countries cadres in the field of substance abuse to increase their skills, knowledge and capacity relating to prevention, treatment, care and support. The curriculum has been Internationally Certified for Addiction Profession (ICAP) cadres in the field of substance abuse. To date, twenty-five (25) Master Trainers have completed ICAP1 training, passed exams and are now certified addiction counsellors. The department has also echo trained more than 260 cadres who will be writing exams before the end of September 2021. The curriculum is implemented in three public treatment centres since 2020 and has been extended to four more additional centres in 2021/22 financial year. Access to treatment services was increased through the building of treatment centres in all provinces. There are 13 public treatment centres in the country. Nine (9) of the public</p>

<i>Findings</i>	<i>Responses</i>
	<p>treatment centres admit women, men, youth and children in a demarcated ward.</p> <p>The National Drug Master Plan 2019–2024</p> <p>The National Drug Master Plan 2019–2024 was approved by Cabinet in October 2019. The plan advocates for the reduction of demand for drugs in communities. Provincial Substance Abuse Forums were capacitated to prevent those who have not started using drugs and treat those who have started using drugs. During capacity building workshops the emphasis under demand reduction were the following:</p> <p>Individual oriented strategies such as community-based and participatory educational programmes, whereby the participants are trained to counter social pressure;</p> <p>Environment oriented strategies such as participatory efforts to redress socio-economic deprivation and increase opportunities for non- risky activities;</p> <p>Specialised and broad-brush clinical services that provide short and long-term therapy as well as other services such as medical treatment, occupational training that are aimed at reducing drug related harms, disability, enhance rehabilitation, prevent relapses and recurrences of drug misuse and Substance Use Disorders, and</p> <p>Community-based information campaigns that assist the public to detect risky drug use early and access appropriate services.</p> <p>The National Drug Master Plan 2019–2024 prioritised populations for interventions as follows:</p> <p>Youth in and out of school/ institutions of higher learning;</p> <p>Children;</p> <p>Women;</p> <p>Persons with disabilities;</p> <p>Pregnant women;</p> <p>Families in all their manifestation including child-headed families;</p> <p>Disadvantaged people in vulnerable communities; Occupational groups at risk (such as artists, athletes and professionals), and</p> <p>Key populations (such as LGBTIQ, sex workers, migrant workers etc.).</p>

*Findings**Responses*

F. Accountability and data collection

(a) Establish accountability mechanisms and a system to monitor and evaluate the implementation of the NSP and regularly collect, analyse and publish disaggregated statistical data on the number of complaints about all forms of domestic violence, the rates of dismissal and withdrawal of complaints, including upon reconciliation, the rates of prosecution and conviction, the sentences imposed on perpetrators and the reparations provided to victims;

(b) Conduct research and a dedicated survey on GBV to obtain more reliable data on the extent and economic impact of GBV, including domestic violence, in the State party

Advance unedited version

Distr.: General
15 June 2022

Original: English
English, French and Spanish only

**Committee on the Elimination of Discrimination
against Women**

**Inquiry concerning South Africa conducted under article 8 of
the Optional Protocol to the Convention**

Follow-up report submitted by South Africa*

[Date received: 8 June 2022]

* The present document is being issued without formal editing.

I. Introduction

1. The report transmits South Africa's response to the recommendations by the CEDAW Committee informed by the findings of the Confidential Inquiry Visit conducted in 2019, following the complaint received by the Committee on 28 February 2013 from the NGO Task Force acting on behalf of about 36 South African NGOs. The NGOs levelled claims against South Africa on the Human Rights abuses related to: high levels of domestic violence, failure to comply with its due diligence obligation to protect women, and grave and systematic violations of the Convention obligations and commitments to the Convention.

II. Scope of the confidential inquiry visit

2. During the inquiry visit the Committee met with government institutions, municipalities and Chapter 9 institutions which were affected by the allegations. Confidential meetings with selected victims, NGOs, and academic institutions were held. In line with the concerns raised by the NGO's to the CEDAW Committee the Confidential Inquiry Visit was conducted in South Africa with the affected parties as follows:

- Gauteng (Pretoria) The national departments were consulted: Deputy Minister of Women, Youth and Persons with Disabilities; the Deputy Minister of International Relations and Cooperation; and representatives of the following Departments: Women, Youth and Persons with Disabilities; Social Development; Justice; Labour and Employment; Rural Development and Land Reform; Basic Education; Higher Education; Human Settlements; Cooperative Governance and Traditional Affairs; Planning, Monitoring and Evaluation; Home Affairs; and Correctional Services. They also met with representatives of the National Prosecuting Authority, the South African Police Service and Statistics South Africa;
- Cape Town (Western Cape): Office of the Premier; Departments of Environmental Affairs and Development Planning; Community Safety; Human Settlements; Social Development; Agriculture; Health; Cultural Affairs and Sport; Education; Economic Development; Local Government; Transport; and Rural Development;
- East London (Eastern Cape): Office of the Premier; Department of Social Development; and Department of Sport, Recreation, Arts and Culture and KwaZulu-Natal (Durban): Office of the Premier; Department of Correctional Services; and Department of Higher Education;
- Gauteng (Johannesburg): The Chapter 9 were consulted: Chairperson and Commissioners of the Commission on Gender Equality; the Deputy Chairperson of the South African Human Rights Commission; and the Chairperson, Deputy Chairperson and Commissioners of the Commission on Culture, Religion and Linguistic Communities;
- NGOs visited: Thuthuzela Care Centre (TCC) at Cecilia Makiwane Hospital, TCC at police station in Mdantsane and TCC at Prince Mshiyeni Hospital, shelters and safe houses, interviewed survivors of domestic violence.

3. Therefore the investigations conducted by CEDAW Committee were mainly focusing on the following issues:

- The extremely high prevalence of sexual and gender based violence in South Africa; Harmful practices and domestic violence: The persistence of harmful traditional and cultural practices such as ukuthwala (forced marriages of women and girls to older men through abduction) and polygamy, which exacerbate violence against women and expose women to the risk of contracting HIV/AIDS;
- Gender-stereotypes and socio-cultural context of domestic violence: The prevalence of societal attitudes which legitimize violence against women and discourage women from reporting violence to law enforcement authorities leading to impunity;
- Prevalence, forms and circumstances of domestic violence: The failure by South Africa to fully implement its due diligence obligation and to enforce laws to protect

women and girl making femicide one of the leading causes of women's deaths in the country;

- Role of the police and the judiciary in investigating, prosecuting and punishing cases of domestic violence: The failure by South Africa to establish the magnitude of the problem of domestic violence due to a lack of research and databases as well as comprehensive statistics on domestic violence.

4. This report therefore seeks to provide clarity on measures South Africa adopted in addressing the aforementioned, including plans, continuous progress and interventions adopted to be employed in addressing the recommendations.

<i>Theme</i>	<i>Findings</i>	<i>South Africa's Response</i>
Harmful practices and domestic violence	<p>1. Abduction of girls and women for marriage ('Ukuthwala')</p> <p>35. The CRL did not answer a designated member's question as to how the State party would ensure that 'Ukuthwala' takes place only with the woman's free, prior and informed consent and does not result in child marriage.</p>	<p>The State should ensure that all legislations and prescripts that protect the abuse of Women and Girls provide for their consent in the context of Ukuthwala. Procedures to be followed in the context of Ukuthwala practice should be crafted and lucidly spelt out to avoid the abuse of Women and Girls. Those tasked with the responsibility of making laws, should ensure that legislations protect and promote Ukuthwala without giving room for Women and Girls exploitation i.e. a particular procedure should be followed for those that wish to exercise their right to marriage through Ukuthwala practice.</p> <p>Currently, Ukuthwala of children is a criminal offence liable to life sentence if found guilty of Ukuthwala of children including women if they did not consent to it.</p> <p>In case of <i>Jezile V State</i> (A127/2014) [2015] ZAWCHC31-SAFLLI, the High Court confirmed the decision of the lower court on sentencing Mr Jezile to 22 years' direct imprisonment for Ukuthwala of a 14-year-old girl.</p>

<i>Theme</i>	<i>Recommendation</i>	<i>South Africa's Response</i>
Legal and institutional framework	Specifically criminalize and establish penalties commensurate with the gravity of all forms of domestic violence and femicide and introduce ex officio prosecution with the possibility of issuing a final warning rather than sentencing the perpetrator when a victim withdraws her complaint upon reconciliation	<p>The country recently amended and passed domestic violence legislation, the effect of which is commiserating the gravity of all forms of domestic violence with specific reference to additional offences provided and possible severe sentences to be imposed by the courts. In addition, the new legislation makes it more difficult for perpetrators to make bail which again displays the gravity on which domestic violence is regarding in SA.</p> <p>The Domestic Violence Amendment Act 14 of 2021 has been enacted to amend the provisions of the Domestic Violence Act, 1998 (Act No. 116 of 1998) (the Act), to address practical challenges, gaps and anomalies which have manifested themselves since the Act was put into operation in 1999. The Bill further proposes the introduction of online applications for domestic violence, among others.</p> <p>In addition, Criminal and Related Matters Amendment Act 12 of 2021, the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act 13 of 2021 has also been enacted to:</p> <ul style="list-style-type: none"> • Expand the scope of the NRSO to include the particulars of all sex offenders. Currently, the NRSO registers sex offenders convicted of sex crimes against children and persons who are mentally disabled; • Expand the ambit to include other vulnerable persons, namely, female persons between the ages of 18 and 25, persons with physical, intellectual

Theme	Recommendation	South Africa's Response
		<p>or mental disabilities and persons 60 years of age or older who, for example, receive community based care and support services; and</p> <ul style="list-style-type: none"> • Increase the periods for which a sex offender's particulars must remain on the NRSO before they can be removed from the Register.
	Harmonize the definition of GBV across all legislation, identify the specific responsibilities of governmental departments to address domestic violence and require them to provide budgetary benchmarks or dedicated resources for gender-responsive budgeting	<p>National Strategic Plan on Gender Based Violence and Femicide (GBVF) 2020 -2030 provides for a definition of GBV. The National Strategic Plan is a government and civil society's multi-sectoral strategic framework to realise a South Africa free from gender-based violence and femicide.</p> <p>The NSP is a multi-sectoral approach which harnesses the roles, responsibilities, resources and commitment across government departments, different tiers of government, civil society, movements, youth structures, faith-based structures, traditional structures, the media, development agencies, the private sector, academic institutions and all other stakeholders.</p> <p>The NSP centres around 6 pillars to achieve a vision of a South Africa free from GBV directed at women, children and LGBTQIA+ community with specific activities and responsibilities of government departments responsible to address GBVF.</p> <p>The Department of Social Development has developed the Victim Support Services Bill that is aimed at providing services that are victims centred. The VSS Bill has identified and outline specific responsibilities of various government departments. The Bill will be costed for implementation.</p> <p>The Western Cape Government drafted a Provincial Gender based violence implementation plan aligning to the NSP GBV&F, and was signed off by the WCG cabinet in September 2020. Quarterly feedback is provided by the different WCG departments per pillar, as indicated in the NSP.</p> <p>WCG Transversal GBV Task Team was established and chaired by MEC: Social Development and HOD: Social Development. It is convened monthly and addresses relevant GBV topics - Gender Responsive budgeting, conversations with male staff in the WCG; etc.</p>
	Provide dedicated funding for the implementation of the National Strategic Plan on GBV and Femicide and ensure that the GBV and Femicide Council is adequately resourced, independent and has a strong mandate;	<p>South Africa established the Gender-Based Violence and Femicide (GBVF) Response Fund 1 to provide dedicated funding for the implementation of the National Strategic Plan on GBVF. The Gender-Based Violence and Femicide (GBVF) Response Fund was launched by the President on 4 February 2021.</p>

Theme	Recommendation	South Africa's Response
		<p>The Fund exists to harness collective resources in all sectors of the economy, led by the private sector to strengthen the national response to gender-based violence and femicide (GBVF) in South Africa.</p> <p>Government of South Africa has allocated approximately R21 billion over the next three years to support the six pillars of the National Strategic Plan. Most of these funds are allocated under Pillar 5 of the National Strategic Plan on Gender Based Violence and Femicide.</p> <p>The Department of Social Development has sustained funding of NPO partners providing victim support services.</p>
	<p>Amend section 26(1) of the Marriage Act and section 3 of the Recognition of Customary Marriages Act to raise the minimum age of marriage to 18 years for both women and men without exceptions, empower courts to invalidate child and forced marriages, prohibit 'Ukuthwala' involving girls and payment of bride prices, and enforce the prohibition of child and forced marriage, particularly in rural areas and within traditional communities</p> <p>Repeal provisions of the Recognition of Customary Marriages Act that allow, tolerate or condone harmful practices such as polygamy and Ukuthwala and amend the Act to define the criteria for ascertaining the free, full and informed consent of the women concerned</p>	<p>South Africa is embarking on a process of developing a new policy to harmonise all marriages in South Africa.</p> <p>A process of harmonising the different acts on marriage South Africa into one Act in which the minimum age of marriage is proposed at 18 years is underway.</p> <p>On 23 March 2022, Cabinet approved the White Paper on Marriages in South Africa for implementation. The White Paper responds to many court judgements that have found some elements of the current marriage legislation to be unconstitutional. It has aligned all marriages to be concluded in accordance with the principles of equality, non-discrimination and human dignity as provided for in the Constitution of the Republic of South Africa of 1996.</p> <p>The White Paper on Marriages and life partnerships in South Africa approved in March 2022 provide a foundation for drafting new marriage legislation.</p> <p>The white paper, articulate clear policy proposals to enable the drafting and submission of new marriage legislation.</p> <p>Some of the key changes that have been proposed include:</p> <ul style="list-style-type: none"> • The new Marriage Act will enable South Africans of different sexual orientations, religious and cultural persuasions to conclude legal marriages; • The introduction of strict rules around the age of marriage (including the alignment of the age of majority in the marriage legislation to the Children's Act);

Theme	Recommendation	South Africa's Response
	<p>Adopt the Gender Equality Bill and ensure that it defines and prohibits all forms of direct and indirect forms of discrimination against women and provides stronger mandates to the national machinery for the advancement of women to regulate service provision and the CGE to oversee and hold the government accountable for the implementation of gender equality legislation.</p>	<ul style="list-style-type: none"> • It will align the marriage, marital property and divorce legislation to address marital property and intestate succession matters in the event of the marriage dissolution; • It will allow for equitable treatment and respect for religious and customary beliefs in line with Section 15 of the Constitution. • It will deal with the solemnisation and registration of marriages that involve foreign nationals; • It will deal with the solemnisation and registration of customary marriages that involve non-citizens, especially cross-border communities or citizens of our neighbouring countries. <p>South Africa has initiated the process of redrafting the Bill which will be consulted upon in the 2022/23 period.</p> <p>The draft Bill seeks to address all forms of discrimination against women and provide stronger mandates to the NGM and other institutional arrangements/mechanisms for the advancement of women.</p> <p>The CGE Act, No 39 of 1996 provides the mandate to the Commission to hold government and other stakeholders accountable (S 11(1)(a)) which includes holding government accountable for the implementation of equality legislation and any other legislation pertaining to women and gender equality.</p>
Law enforcement	<p>Exercise due diligence to prevent, investigate, punish and provide effective remedies to victims of domestic violence;</p>	<p>South African Police Services introduced Mobile contact points (mobile community centres) were introduced to improve police presence, to ensure accessibility, to enhance service delivery in crime hot spots and to enhance and strengthen the relationship between communities and the Police. A total number of 12 chassis cab trucks have been converted for use as mobile contact points.</p> <p>Government of South Africa introduced the Domestic Violence Amendment Bill in 2020 which was enacted in 2021. The Amendment Act seeks to amend the provisions of the Domestic Violence Act, 1998 (Act No. 116 of 1998) (the Act), to address practical challenges, gaps and anomalies which have manifested themselves since the Act was put into operation in 1999 and which render women and children helpless to the violence they experience, often in the confines of their homes.</p>

Theme	Recommendation	South Africa's Response
		<p><i>Key intervention 1: Strengthen leadership and accountability</i></p> <p>(a) Functionary's obligation to report domestic violence. Clause 2A of the Amendment Act puts a positive obligation on a functionary, who in the course of the performance of their duties or the exercise of their functions obtains information which, after evaluation by them, causes them to believe or suspect on reasonable grounds, that a child, a person with a disability or an older person is a victim of domestic violence to without delay report such belief or suspicion to a social worker or a member of the South African Police Service.</p> <p>(b) Adult obligation to report domestic violence. Clause 2B of the Act places an obligation on an adult person who knows, or believes or suspects on reasonable grounds, that an act of domestic violence has been committed against a child, a person with a disability or an older person, to report such knowledge, belief or suspicion as soon as possible, to a social worker or the South African Police Service.</p> <p>(c) Domestic Violence Safety Monitoring Notice. Clause 4A (6) of the Act empowers the court to order the station commander to direct a member of the South African Police Service under their command to contact the complainant at regular intervals by means of an electronic service at an electronic address as specified in an Annexure to the notice, and to enquire about the complainant's wellbeing; and at regular intervals, to visit the joint residence and to see and to communicate in private with the complainant.</p> <p>(d) Electronic Communications Service Providers to assist courts. Clause 5B(1) of the Act provides that if an application for a protection order is made and it is necessary to determine whether an electronic communication, which was used to commit an act of domestic violence, was disclosed by the respondent, the court may direct an electronic communications service provider, that is believed to be able to furnish particulars, to furnish the court by means of an affidavit with, inter alia, any information that is available to an electronic communications service provider that may be of assistance to the court to identify the person who disclosed the electronic communication or the electronic communications service provider, that provides a service to that person.</p> <p>Clause 5B(6) of the Act provides that if the court issues a protection order, it must at the same time issue an order to the electronic communications service provider whose electronic communications service is used to host or disclose the electronic communication which was used to commit an act of domestic violence, to immediately remove or disable access to the electronic communication.</p> <p>(e) Director-General to develop an electronic repository of domestic violence protection orders. Clause 6A(1) of the Act obliges the Director-General to develop,</p>

Theme	Recommendation	South Africa's Response
		<p>establish and maintain the integrated electronic repository for domestic violence protection orders. This repository will store all domestic violence related documents for easy access and retrieval by authorised personnel in case where the original document is lost, destroyed or misplaced.</p> <p>(f) Directives for clerks of the court. Clause 18A of the Act obliges the Director-General: Justice and Constitutional Development to issue directives with which clerks of the court must comply in the execution of their functions in terms of the Domestic Violence Act, which directives must be published in the Gazette. The directives will set out the duties and responsibilities of the clerks of the court in relation to applications for domestic violence protection orders, and must ensure that adequate disciplinary steps will be taken against a clerk of the court who fails to comply with any directive.</p> <p>(g) Provision of legal aid at State expense. Clause 19(1) of the Act empowers the Minister of Justice and Correctional Services to make regulations regarding, inter alia, the granting of legal aid at State expense in appropriate cases in consultation with the Legal Aid South Africa to the complainant, respondent or a child to assist them with an application for a protection order in terms of this Act. The provision of legal aid is no longer confined to a child but is extended to the complainant and respondent.</p> <p><i>Key intervention 2: multi-sectoral coordination</i></p> <p>(h) Directives by various stake-holder departments. Clause 18B of the Act provides that the Directors-General of the departments responsible for Health, Social Development, Basic Education, Higher Education, Science and Innovation and Communications and Digital Technologies must —</p> <p>(i) in consultation with Cabinet members responsible for health, social development, basic education, higher education, science and innovation, police and communications and digital technologies; and</p> <p>(ii) after consultation with the Director-General: Justice and Correctional services, National Director of Public Prosecutions and National Commissioner of the South African Police Service, publish in the Gazette directives regarding matters which are reasonably necessary or expedient to be provided for and which are to be followed by functionaries and other relevant persons when dealing with incidents of domestic violence, in order to achieve the objects of this Act. This promotes coordination amongst the relevant stake-holder departments.</p> <p>The Western Cape Provincial government activated an additional 6 shelters for victims of crime and violence in the rural areas.</p>

Theme	Recommendation	South Africa's Response
		<p>Furthermore, social work services have been activated in hotspot areas</p> <p>The Western Cape Provincial government support NPO's to render GBV educational workshops in hotspot/ high risk communities in the Western Cape. This is also done by the key stakeholder departments nationally in hot spot areas.</p> <p>The Western Cape Police Ombudsman receive and investigate service delivery complaints against the South African Police Service in the Western Cape.</p> <p>Should a victim of GBV find that there were elements of poor investigation, or that victims face secondary trauma at the police station, the office will be able to support victims by way of investigating the policing inefficiency. The Western Cape Community Safety Act, 2013 is being reviewed to include Law Enforcement bodies.</p>
	Ensure that perpetrators of domestic violence are not released on bail, are prosecuted and receive penalties commensurate with the gravity of the offence, as well as adequate correctional and rehabilitation services to prevent recidivism;	<p>President of South Africa signed into law legislation aimed at strengthening efforts to end gender-based violence, with a victim-centred focus on combating this dehumanising pandemic. The President has assented to the Criminal and Related Matters Amendment Act 12 of 2021. The purpose of the Act is to amend -</p> <ul style="list-style-type: none"> • The Magistrates' Courts Act, 1944, so as to provide for the appointment of intermediaries and the giving of evidence through intermediaries in proceedings other than criminal proceedings; the oath and competency of intermediaries; and the giving of evidence through audio-visual link in proceedings other than criminal proceedings; • The Criminal Procedure Act, 1977, so as to further regulate the granting and cancellation of bail; the giving of evidence by means of closed circuit television or similar electronic media; the giving of evidence by a witness with physical, psychological or mental disability; the appointment, oath and competency of intermediaries; and the right of a complainant in a domestic related offence to participate in parole proceedings; • The Criminal Law Amendment Act, 1997, so as to further regulate sentences in respect of offences that have been committed against vulnerable persons; and • The Superior Courts Act, 2013, so as to provide for the appointment of intermediaries and the giving of evidence through intermediaries in proceedings other than criminal proceedings; the oath and competency of intermediaries; and the giving of evidence through audio-visual link in

Theme	Recommendation	South Africa's Response
		<p>proceedings other than criminal proceedings, and to provide for matters connected therewith.</p> <ul style="list-style-type: none"> • WC DOCS Monitoring of Domestic Violence and the role played by SAPS in the registration of domestic violence incidents, registration of criminal cases and the investigation of those criminal cases through oversight and the Court Watching Briefs. Reporting of the systemic failures which lead to GBV cases being struck of the court roles. • Assess 151 police stations which includes observation visits to VEP rooms, as the SAPS report on the functions related to domestic violence at the Domestic Violence Compliance Forum.
	<p>Provide mandatory, recurrent and effective capacity-building for the judiciary, law enforcement officers, forensic medical experts, health care personnel and social workers on all forms of domestic and sexual violence, the strict application of the DVA and the Sexual Offense Act (SOA), gender-sensitive questioning, proper case management and collection and use of forensic evidence, and their role in protecting, encouraging and assisting victims to report cases of domestic violence</p>	<p>A National Forensic Services Corporate Renewal Strategy was developed, to improve and strengthen the functioning and contribution of forensic services in the Criminal Justice System. The Strategy is aimed at improving the use, coordination, monitoring and impact of forensic products in criminal investigations and criminal court processes.</p> <p>Matters addressed in the Strategy are:</p> <ul style="list-style-type: none"> • to capacitate forensic services, including an adequate baseline (operational) budget and the appointment of sufficient forensic staff; optimal crime scene investigation and exhibit collection; subsequent forensic analysis of exhibit material; storing and comparative searching related to fingerprints and forensic DNA profiles; and the provisioning of forensic products to detectives and courts to be used in the resolution of crime, including the quality of the process of exhibit preservation and collection on crime scenes that would substantially improve investigations and stand up to scrutiny in courts. The Strategy incorporates key findings made in the report on the Economic Evaluation of the Incremental Investigation in Forensic Services that was released by the DPME. <p>Compliance with the taking of buccal samples from Schedule 8 arrested offenders are prioritised, in support of the implementation of the DNA Act. These offences are: murder, attempted murder, all types of sexual offences (including rape and sexual assault), all types of robbery, all types of burglary, all types of theft (excluding stock theft) and the illegal possession of firearms and ammunition.</p>

Theme	Recommendation	South Africa's Response
		<p>During 2020/2021, a total of 86 969 buccal samples were taken from a total number of 199 507 suspects arrested for Schedule 8 offences by the South Africa Police Service.</p> <p>During the 2021/2022 financial year, the National Prosecuting Authority SOCA Unit delivered 70 training sessions on the GBVF mandate to prosecutors and relevant stakeholders. These sessions <i>inter alia</i> include a curriculum on social context awareness. Our training manuals are annually reviewed and updated in line with the latest developments in law and legislation. This is also an ongoing responsibility for the NPA.</p> <p>In February 2020, the Sexual Offences Courts (SOCs) were promulgated into law in terms of Section 55A of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007).</p> <p>The aim is to create a justice system that is quick, responsive, caring and effective for victims of sexual offences.</p> <p>South Africa established a Task Team for the Designation of Sexual Offences Courts constituted by the Regional Court President (Limpopo), NPA (SOCA UNIT), Legal Aid SA, and Rape Crisis, Western Cape, and chaired by the CD: PRVG, to develop a Compact for the Designation of Courts as Sexual Offences Courts. The Compact was intended to set a roadmap to the implementation of the Regulations relating Sexual Offences Courts and the step-by-step process for the designation of courts as sexual offences courts in terms of section 55A of the Act.</p> <p>The task team finalised the development of the Compact in February 2021 and it constituted of the Guidelines for Designation of Sexual Offences Courts and the Checklist for the Selection of Courts for Designation.</p> <p>Due to the delay in DNA reports from the Forensic Science Laboratory (FSL) in South African Police Station, the National Prosecution Authority commenced with a collaboration initiative to address the urgency of DNA reports being finalised for court purposes. This is to also address the increased backlog of cases at courts due to the outstanding DNA reports. From October 2020, the project resulted in 2743 reports finalised from FSL and submitted to prosecutors to ensure that cases are being prioritized and prosecuted in court.</p> <p>Capacity building is ongoing within the WC (rephrase) WC Funded Social Workers trained in substance use disorder given intersection between GBV and substance abuse.</p> <p>Issue to capacitate the Traditional Authorities in rural communities (Dikgosi/ Ndonas) in rural communities Limpopo developing a localised document/guidelines/framework to</p>

Theme	Recommendation	South Africa's Response
		<p>guide on GBV. DSD Limpopo undergoing GBV Roadshows at MEC Level to create awareness. To ensure localisation of NSP at provincial level/ local ground.</p> <p>Project Ndabezitha on role of Traditional Leaders in addressing GBV Cases – trained by the NPA. Reflect the role of Traditional Leaders in addressing GBV, highlight the impact and assessment.</p> <p>National Department of Health developed SRHR Curriculum. Module 13 – centered on GBV. Clinicians and non-clinicians are trained and capacitated across all 9 provinces. on handling the victims of GBV at facilities, including at primary health care facilities,</p> <p>Department of Social Development works with NPO partners and with Disability sector, to train social workers in trauma informed care and strengthening service delivery to LGBTIQ+ (Lesbian, Gay, Bisexual, Transgender, Intersex, Queer/Questioning, Asexual) victims of gender based violence.</p> <p>Representatives of the Shelter social workers were trained in substance use disorder</p> <p>DSD conducted capacity building to representatives of Disability sector on GBV; National Strategic Plan and through this, strengthened intersectoral collaboration.</p> <p>Check with Justice, NPA and Judiciary on the training of the judiciary, SAPS</p> <p>Include internal plans for judiciary training: Association of Women Judges Training / Law Enforcement etc.</p> <p>Establish if there are training manuals and reflect if there are any, and the progress thereof.</p> <p>Awareness session are planned focussing on substance abuse, gender based violence and agri-worker rights and responsibilities.</p> <p>Gender-based violence information sessions, Human Trafficking awareness sessions targeted at employees are conducted through the EHW service provider to raise awareness, following 365 days of no violence approach.</p> <p>GBV information sessions also focus on the role of Health care workers to assist and refer survivors for support.</p> <p>Management rural safety cases linking to all role players through referral pathways following an integrative approach.</p> <p>Total number of members trained and declared competent for the period 1 April 2015 to 31 March 2021 as per the Training Administration System on 15 September 2021:</p>

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Course Description	Trained Members	Competent Members
Basic Course in Hostage and Suicide Negotiation	80	74
National Victim Empowerment Training Programme	4 862	4 845
Domestic Violence Learning Programme	11 740	11 690
Children and Youth at Risk	4 364	4 335
Human Rights in Policing Programme	3 741	3 740
First Responder to Sexual Offences Learning Programme	7 551	7 542
Sexual Offences Course for Investigating Officers	3 422	3 409
Resolving of Crime Skills Programme 1	5 412	5 214
Vulnerable Children Course	8 083	8 065
Basic Police Development Learning Programme	10 156	10 155
Basic Crime Investigative Practice	4 752	4 712
Family Violence Child Protection and Sexual Offences	852	852
Psychologically Motivated Crime Course	267	263
Total	65 282	896

There is a monitoring tool developed to assist in the monitoring and reporting of the SAPS activities towards the implementation of the Gender Based Violence and Femicide

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		National Strategic Plan (2020-2030). The SAPS report to the DWYPD on monthly basis regarding the implementation of the Gender Based Violence National Strategic Plan
	Prosecute all cases of rape ex officio, including when the victim is 16 years or older or withdraws her complaint against the perpetrator;	<p>The Criminal Law (Sexual Offences and Related Matters) Amendment Bill [B16B-2020] as it pertains to the Amendment Bill's proposed amendments to extend the ambit of the offence of incest, to introduce a new offence of sexual intimidation, to regulate the inclusion of the particulars of persons on the National Register for Sex Offenders, and to regulate the reporting duty of persons who were aware that sexual offences had been committed against children. The introduction of this legislation will ensure that all cases of rape are reported and prosecuted.</p> <p>Part I of Schedule 2 to the Criminal Procedure Act provides that the offence of rape—</p> <ul style="list-style-type: none"> (a) when committed— <ul style="list-style-type: none"> i. in circumstances where the victim was raped more than once, whether by the accused or by any co-perpetrator or accomplice; ii. by more than one person, where such persons acted in the execution or furtherance of a common purpose or conspiracy; iii. by a person who has been convicted of two or more offences of rape or compelled rape, but has not yet been sentenced in respect of such convictions; or iv. by a person, knowing that he has the acquired immune deficiency syndrome or the human immunodeficiency virus, is punishable by life imprisonment. <p>Clause 15 of the Criminal and Related Matters Amendment Bill also provides for circumstances where the offence of rape is punishable by life imprisonment, where the victim of the offence is a vulnerable person. In terms of this amendment—</p> <ul style="list-style-type: none"> (a) the age of a vulnerable person is increased from 16 years to 18 years; and (b) a new item is inserted to extend the application of Part I of Schedule 2 to a victim who is or was in a domestic relationship, as defined in
	Provide systematic training to ensure that law enforcement officers investigate domestic violence cases swiftly, independently and thoroughly, including when a victim withdraws her complaint upon reconciliation with the perpetrator;	With reference to the NPA, for the past 2021/2022 financial year the NPA SOCA Unit delivered 70 training sessions on the GBVF mandate to prosecutors and relevant stakeholders. These sessions inter alia include a curriculum on social context awareness. Our training manuals are annually reviewed and updated in line with the latest developments in law and legislation. This is also an ongoing responsibility for the NPA.

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		<p>KZN – training (SAPS, NPA) in dealing with Domestic Violence cases at District level. Provincial Men's Forum aimed to strengthen curbing GBV, also highlight GBV case on Men by Women.</p> <p>Eastern Cape: 2 ongoing cases: Young man stabbed by women. The prioritisation of GBV cases. Warranting for SAP training on dealing with cases. The men's forum and gender Machinery Training aid in addressing GBV in the province.</p> <p>Provision and inclusion of the NSP to be migrated and integrated into the Curriculum of Justice College.</p>
	Provide SAPS with the necessary skills and means, including sufficient vehicles, IT tools and training, to serve, enforce and monitor protection orders, accompany victims to collect personal belongings and confiscate firearms from perpetrators;	SAPS provide necessary skills and training to members of the police service, to serve, enforce and monitor protection orders, accompany victims to collect personal belongings and confiscate firearms from perpetrators. This is part of the SAPS training.
	Strengthen accountability mechanisms to punish non-compliance by SAPS officers with their duty to investigate and their obligations under the DVA, corruption, or collusion with perpetrators;	Independent Police Investigative Directorate (IPID) has been established to fulfil an oversight role over South African Police Service (SAPS) and Municipal Police Service (MPS). IPID conducts investigations into police criminality, particularly cases of death, rape, and corruption, including crimes against vulnerable groups such as women, children, and persons with disabilities.
	Provide confidential debriefing spaces and psychological support to SAPS officers undergoing trauma, and incentives to register domestic violence cases by including GBV indicators in their performance evaluation plans;	Psychological support services for Members of the South African Police Services are largely provided through the SAPS Employee Wellness and Assistance Programme.
	Introduce an electronic case management system and provide training on its use to prevent the loss of dockets	<p>Domestic Violence Amendment Act seeks to amend the provisions of the Domestic Violence Act, 1998 (Act No. 116 of 1998) (the Act), to address practical challenges, gaps and anomalies which have manifested themselves since the Act was put into operation in 1999. The Bill further proposes the introduction of online applications for domestic violence, among others.</p> <p>The National Prosecuting Authority is improving efforts to modernise the prosecution service and broader criminal justice system. The prosecution service has enhanced the use of the Electronic Case Management System (ECMS) and the development of electronic systems and solutions related to trials. Increased use of audio-visual remand (AVR) systems and the development of court audio visual solutions (CAVS) form part of the</p>

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		<p>solutions agreed by the entities in the criminal justice system (CJS) to enhance service delivery.</p> <p>Prosecutors are being trained virtually and are provided with support on the use of the ECMS. Further training modules have been developed, including modules on investigating officer diaries and decision dockets.</p> <p><i>SMS notifications</i></p> <p>The implementation of electronic notifications in the form of SMS notifications is aimed at optimising the tracking and communication on the processing of justice services, in that as court cases proceed through various stages, SMS messages will be sent to the parties to notify them of the status of their case as well as communicating court appearance dates. This alleviates the need for the parties of a case to telephonically contact or visit the courts to enquire about the status of their cases or their next court appearance dates. This capability has been implemented for domestic violence and family advocate services and will be implemented for other identified services in the next financial years.</p>
Access to justice	Remove barriers to justice faced by women and girls, including by providing institutionalized affordable or, if necessary, free legal aid for domestic violence victims, irrespective of the perpetrator's legal representation, and reimbursement of transportation costs, and by funding organizations providing legal assistance to victims;	<p>For the past 2021/2022 FY, the NPA increased its number of TCC sites nationally to 60 sites and at the said sites, 34 456 matters were reported. All these victims received the required services. Of the number reported, 88% of the matters are specifically in relation to sexual offences and 58.3% with children as victims.</p> <p>Secondly, the NPA is in the process of establishing an additional 10 TCC-sites nationally.</p> <p>Furthermore, the NPA in its quest to increase the number of matters reported by victims nationally at TCC-sites, expanded its service to include a Domestic Violence Protocol at the TCCs to provide further assistance to victims. We have introduced such a protocol to eventually be implemented by all TCC sites. As part of the protocol all TCC-staff members are trained to assist the victim to apply for a domestic violence protection order and a nodal point at the court to assist with the process in granting the order.</p> <p>Representation for vulnerable or specialist groups of people is provided by the Legal Aid South Africa. This is available through our mixed model service delivery mechanism. Legal Aid South Africa Local offices have established links with 948 organisations working with vulnerable groups. Legal Aid SA work in co-operation with University Law Clinics who have specialist capacity to assist certain vulnerable groups such as refugees.</p> <p>Women constituted 57.7% of overall clients assisted in civil matters. A total of 2,517 children were assisted in administration of deceased estate matters and R50 million paid</p>

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		<p>out to beneficiaries in estate matters. Legal Aid South Africa also offer legal assistance to the elderly and mental healthcare patients as well as refugees.</p> <p>Legal Aid SA works with Child-line SA and links with the Teddy Bear Foundation, to create creating greater access to legal services for children and caregivers of children. The Legal Aid SA also work with the National Movement of Shelters to provide the option of referral for legal services to people affected by gender-based violence.</p> <p><i>Provincial focus</i></p> <p>Government of South Africa is also running the Khuseleka One-Stop Centre, which are open 24 hours a day and provides services such as trauma counselling and psychological support, healthcare, police services, legal assistance and shelter for victims of abuse. These one-stop centres are available in 6 provinces: Limpopo, North West, Western cape, Gauteng, Eastern cape, and Northern cape.</p> <p>Western Cape Province funds a paralegal service at the provincial Khuseleka Centre at the Saartjie Baartman Women's Centre for women and children</p>
	Require court clerks to assist victims to fill out application forms for protection orders, inform them about the need to show imminent harm and to appear on the return date for obtaining an eviction or a final protection order, as well as to report recurring violence;	<p>WC DSD funds CBO NGO's (lay counsellors/Social Auxiliary Workers) at specified courts, to assist victims to complete protection orders; provide emotional containment and referral to resources.</p> <p>KZN: Collaborate with CBO/ NGO play crucial role in providing support. Women's Network is providing support to other Women organisations and Network to assist victims: support, court cases, housing and lodging.</p>
	Train magistrates and clerks to formulate protection orders that effectively protect victims and prohibit further acts of domestic violence, ensure that applicants are received outside court working hours, referred to victim support services and that they can make applications online and in victim-friendly facilities;	<p>The National Prosecuting Authority compiled a comprehensive GBV draft strategy for national implementation by all prosecutors, which is addition to all relevant policy directives on related GBV legislation.</p> <p>To complement current GBV related Training manuals, further research and development of specific module on GBV to be included in relevant material was undertaken. These training materials are reviewed and updated on annual basis before the delivery of all related training sessions. It also includes a crucial session on social context awareness as presented to all prosecutors and integrated stakeholders.</p>
	Ensure that police officers located in TCCs are available 24/7, increase the number of adequate victim friendly facilities in police stations and ensure that	<p>The 55 TTCs continued to be fully operational providing a victim-centric service in an effort to reduce the trauma associated with sexual offences.</p> <p>Significant progress was, made in establishing two additional sites in Cradock-(EC) and the Paarl (WC) where services commenced despite them not being fully operational.</p>

<i>Theme</i>	<i>Recommendation</i>	<i>South Africa's Response</i>
	police officers and volunteers undergo training on gender-sensitive protocols;	<p>A 16.6% reduction in matters reported at the TCCs was noted which is ascribed to the impact of the COVID-19 pandemic. During the year under review, 29 593 victims were assisted at the 55 TCCs, of which 26 281 (89%) were victims of sexual offences. For the past four years, the TCCs delivered services to 133 593 victims, 89.5% of which were specifically victims of sexual offences while 57.6% of these were children.</p> <p>The TCCs referred cases to the courts for prosecution and 734 convictions in the 993 cases finalised with a verdict (73.9% conviction rate) were obtained.</p> <p>The conviction rate decreased by 1% from that obtained in the previous financial year. It was also noted that over the last two financial years the courts have imposed more severe sentences. Eighteen percent (18.1%) of all accused convicted of rape were sentenced to life imprisonment, while 50.5% of the accused received sentenced of long-term imprisonment in line with the Minimum Sentences Legislation. Despite this, the scourge of sexual offences and related offences is not abating and is becoming a national crisis.</p> <p>The National Prosecuting Authority finalised 3 349 sexual offences cases with a verdict and there were convictions in 2 539 cases in the 2020/21 financial year. The target for the conviction rate in sexual offences cases was exceeded by 5%. The conviction rate of 75.8% is the highest conviction rate recorded in the past nine years and is a clear indication of the commitment to act decisively in these cases.</p> <p>The Western Cape DSD funds psychosocial services at all Thuthuzela Care Centres (TCC) in the province that is available 24/7. Services funded include funding of lay counsellors or social auxiliary workers to provide emotional containment of rape victims when presented at the TCC, as well as funding of social workers to provide long term psychosocial support. The Department has furthermore appointed 30 GBV Social Workers in 2020 that assist with long-term psychosocial support of victims.</p> <p>The GBV Command Centre and KZN DSD call Centre operates for 24 hours a day in seven days per week and has the capacity to receive telephone calls from members of the public in need of counselling, conduct intensive telephone counselling sessions and refer the cases for psycho-social service providers for follow up and continuation with psycho-social support by local service office Social Workers.</p> <p>DSD also funds the Lifeline Organisation who employs Social Workers who render psychosocial support services to victims at</p> <p>92 Police stations, all 8 Thuthuzela Care Centres and 13 Crisis Care Centres in all Districts.</p>

<i>Theme</i>	<i>Recommendation</i>	<i>South Africa's Response</i>
	Ensure that victims of domestic violence have access to effective remedies, including rehabilitation, and that cases are not referred to alternative dispute resolution procedures or traditional courts prioritizing mediation;	<p>The Department of Social Development funds shelters and service organisations at critical entry points to provide psychosocial support services to victims of GBV.</p> <p>The Department of Social Development has developed the Intersectoral shelter policy for victims of crime and violence in order to standardise quality of services rendered at the shelters across the country. The aim of the Intersectoral shelter policy is to ensure that shelters across the country are inclusive in the accommodation of victims, this covers LGBTI victims and children. The policy addresses the recommendations of the 2019 CGE report on the Status of Shelters in South Africa. Furthermore, the same policy advocates for the skills development to be implemented in all shelters for economic empowerment of women.</p>
	Create a supportive environment to encourage victims to report incidents of domestic violence by:	National and provincial government provides support to NPO's to render GBV educational workshops in hotspot/ high risk communities.
	i. Destigmatizing victims, dismantling commonly held victim-blaming beliefs, protecting victims from threats and retaliation by perpetrators before, during and after legal proceedings, and imposing strict penalties for breaches of protection orders;	<p>Funding is also provided to organisations rendering court support services to provide victims with psychosocial support when applying for a protection order or for proceedings at sexual offences courts; providing containment and referral to further services</p> <p>Through the Provincial VEP forum stakeholders meet quarterly to discuss victim support services blockages.</p>
	ii. Ensuring victims' access to forensic psychiatric evidence, especially in rural areas, and fast-tracking forensic medical examinations at day hospitals;	<p>Most GBVF cases rely on forensic evidence in the form of DNA, therefore, the NPA SOCA Unit collaborated with SAPS FSL (who is responsible for the DNA analysis) to ensure a fast-tracking process re these reports.</p> <p>Since October 2020 up to 26 May 2022, a total of 10 490 of these reports were prioritized accordingly and submitted to prosecutors in the divisions nationally.</p> <p>This process has a direct positive impact on the prioritization and finalisation of these cases in court, which ensures an improved victim-centric approach by the CJS.</p> <p>The reports following forensic psychiatric evaluations of Victims are submitted to the Courts as part of expert evidence in a particular court case.</p>
	iii. Ensuring that court proceedings are not unduly prolonged, avoiding direct confrontation of victims with perpetrators, eliminating judicial gender bias and raising awareness among the judiciary and police of the	Forensic medical examinations are also provided in District Hospital in Rural Areas. Victims are accessing support from DoH, psychiatric and psychological support and evaluation at rural areas. SA addressing the challenges. The reports following forensic psychiatric evaluations of Victims are submitted to the Courts as part of expert evidence in a particular court case. Feedback is given to all mental health care users following

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	<p>need to give due weight to women's and girls' testimonies as parties and witnesses;</p> <p>iv..Ensuring that courts adequately take into account domestic violence when determining child custody or visitation rights</p> <p>Establish a centralized electronic case management system in the judiciary to ensure effective and efficient handling of cases of domestic violence.</p>	<p>mental health assessments as part of care, treatment and rehabilitation in designated psychiatric hospitals across the country.</p> <p>The electronic case management system was introduced in January 2020 in South Africa.</p>
Victim support	<p>Increase the number of and provide sufficient funding to TTCs to ensure that they can operate 24/7, provide adequate medical and psychosocial support to victims of sexual violence, particularly in rural areas, and train social workers on trauma counselling;</p>	<p>Performance of the NPA established TCC-sites for the past 20212-2022 FY reflects the following:</p> <ul style="list-style-type: none"> • 60 sites • Matters reported; 34 456 • Conviction rate of TCC cases finalised in court; 76.7% (which is 6.7% above our national target) • 1346 cases finalised, which is an increase of 35.5% from the previous Financial Year • Breakdown of sentences imposed by the courts for TCC reported cases; • Life imprisonment sentences: 201 (an increase of 60 (42.5%) versus the previous FY) • 20-25 years imprisonment sentences: 106 (an increase of 21 (24.7%) versus the previous FY) • 10-19 years imprisonment sentences: 378 (an increase of 83 (28.1%) versus the previous FY) • Furthermore, it confirms that the courts are generally imposing more severe sentences specifically on rape offences in relation to TCC verdict cases, in comparison with the FYs prior to the NSP on GBVF (2018). <p>The NPA, who is mandated to manage TCCs in the country (due to the prosecution-court link to the model), has embarked on an accelerated expansion to rapidly increase the number of TCCs in the country nationally with due regard to rural and urban areas.</p>

Theme	Recommendation	South Africa's Response
		<p>Furthermore, the NPA has a comprehensive court preparation program for all victims of crime, which has a central focus in its approach to attend to the needs of victims of crime but ensure that they are given a greater role in the process of achieving justice. In the past FY, a total of 97 213 witnesses were assisted by the CPO's of which 46 805 relates to witnesses in sexual offence cases, whilst 7 813 victim impact statements were facilitated. This is an increase of 35 735 (64%) of total witnesses assisted by CPO's in comparison with the 2020/21 financial year.</p> <p>In the Western Cape Province, DSD funds psychosocial services at all Thuthuzela Care Centres (TCC) in the province that is available 24/7. Services funded include funding of lay counsellors or social auxiliary workers to provide emotional containment of rape victims when presented at the TCC, as well as funding of social workers to provide long term psychosocial support.</p> <p>The NPA has ensured that these services are available in all provinces.</p>
	Adopt the Victim Support Services Bill, define VES as mandatory services, adequately fund NGO-run shelters and safe houses, increase the daily benchmark allocation per resident using the same funding model in all provinces, remove bureaucratic obstacles to DSD subsidies and the requirement for NGOs to have infrastructures in at least four provinces, and facilitate the acquisition by NGOs of the land where their shelter premises are based;	<p>The Department of Social Development is currently refining the VSS Bill after it was gazette in the year 2020 and received public comments were processed and incorporated into the VSS Bill. The VSS Bill will be tabled into Cabinet for approval to table into Parliament. The VSS Bill aimed to regulate the victim support services and putting the victim at the centre of the Criminal Justice System.</p> <p>KwaZulu Natal Provincial government employed Social Workers in all Districts (100 Social Workers) to assist with offering Victim Friendly Services. Through VEP Programme in the DSD in the province.</p>
	Ensure that shelters and safe houses have sufficient capacity to receive victims of domestic violence, including those with psychiatric conditions, LGBTI victims, and their children, provide dedicated allocations for skills development in shelters in all provinces, and fully implement the recommendations in the 2019 CGE report on the 'State of Shelters in South Africa';	<p>The Department of Social Development has developed the Intersectoral shelter policy for victims of crime and violence in order to standardise quality of services rendered at the shelters across the country. The aim of the Intersectoral shelter policy is to ensure that shelters across the country are inclusive in the accommodation of victims, this covers LGBTI victims and children. The policy addresses the recommendations of the 2019 CGE report on the Status of Shelters in South Africa. Furthermore, the same policy advocates for the skills development to be implemented in all shelters for economic empowerment of women.</p>
	Ensure that survivors of domestic violence and their children have access to affordable housing, free education, long-term psychosocial support, loans, credit and other basic services and financial support, and are	<p>Nationally the majority of TCCs across the country are linked to a shelter, with protocols in place to ensure quick access to a shelter for victims who received services at the TCCs.</p>

<i>Theme</i>	<i>Recommendation</i>	<i>South Africa's Response</i>
	economically empowered to gain economic autonomy to leave and recover from abusive relationships;	<p>The Department of Social Development as lead in the implementation of NSP on GBVF Pillar 4 (Response, Care, Support and Healing) ensure the provision of psychosocial support services to victims of GBV beyond the Shelter.</p> <p>The Intersectoral Sheltering Policy mandates the re-integration of GBV victims to an extent of involving other relevant stakeholders within the Sector to contribute to healing of the victims.</p> <p>The school fee exemption for learners is based on a National Gazette and national policy as per the Department of Basic Education. Each parent applies for a school fee exemption.</p> <p>The policy takes into consideration the income of both parents who have registered the learner at the school, however each situation is investigated and proper consideration is given by the school and SGB. If the parent is unhappy with the outcome s/he can appeal a reconsideration at the circuit /district office.</p> <p>Lifeline organisations are funded to provide economic empowerment opportunities to women and these include short courses in sewing, baking, hair and nail care and basic computer literacy. These women are recruited from their current caseloads and attend the training on a daily basis. Lifeline also provides taxi fare for the women on a daily basis.</p> <p>Western Cape provincial government funds shelter to address skills development needs of clients to increase economic independency. In addition, the province also provides shelters rendering second-stage housing to women and their children, allowing for additional 6 month stay in shelter to advance independency.</p> <p>Limpopo – IN partnership with Legislature and the standing committee on WYPD made oversight of the VEPs, Office of the Premier- OSWs must make requisitions for support of survivors. Since May 2022 sanitary needs, clothes, etc. were distributed.</p> <p>Limpopo - Skills Development taking place for Women currently in shelters and for those who moved. Sewing training (30 Women) supported by Nyamokawa Women Empowerment Initiative in partnership with First Rand. Receiving training. Will receive start-up capital 3000 – 4000 upon conclusion of training. To eliminate dependence.</p>
	Ensure women's economic protection upon divorce, reduce the length of divorce proceedings, enforce maintenance obligations and provide adequate child support to mothers leaving an abusive relationship.	<p>Psycho-social support is offered to survivors of DV, GBV through funded NPOs and DSD own services National and Provincial level across all 9 provinces.</p>

Theme	Recommendation	South Africa's Response
		<p>In South Africa, marriage is governed by different laws:</p> <ul style="list-style-type: none"> (a) The Marriage Act, 1961 (Act No. 25 of 1961) (b) The Matrimonial Property Act of 1984 (Act No. 88 of 1984) (c) The Recognition of Customary Marriages Act of 1998 (Act No. 120 of 1998) (d) The Civil Union Act, 2006 (Act No. 17 of 2006) <p>The Recognition of Customary Marriages Act of 1998 (Act No. 120 of 1998) repealed the Black Administration Act of 1927, which considered customary wives to be minors subject to the guardianship of their husbands. In terms of section 3(1) both prospective spouses must be over 18 years old and must both consent to be married under customary law. Section 6 provides that both spouses are recognized equal status and equal capacity to acquire assets and to dispose of them, to enter into contracts and to litigate.</p> <p>In terms of section 7 customary marriages entered into after the commencement of the Act create a community of property regime, unless the spouses agree differently, while existing marriages remain governed by customary rules. Section 8 provides that divorce may be dissolved by a decree of divorce issued by a court on the ground of the irretrievable breakdown of the marriage, when it has reached such a state of disintegration that there is no reasonable prospect of the restoration of normal marriage relationship. Upon divorce there is equal distribution of the marital property and court orders address issues of child maintenance and spousal support.</p>
Prevention and awareness-raising	Adopt, effectively implement and adequately fund preventive measures to challenge and dismantle the root causes of domestic violence, including patriarchal attitudes and discriminatory stereotypes that perpetuate or legitimize domestic violence and harmful practices giving rise to such violence and confine it to the private sphere, and combat the culture of silence and impunity surrounding domestic and sexual violence;	<p>For the NPA, public awareness is a continuous process re our prevention strategy. In the past 2021-2022 FY, the NPA SOCA Unit, delivered and or participated in 275 events during the 16-days of no violence campaign. These sessions are specifically on the GBVF mandate and cover a wide spectrum on related topics.</p> <p>As with training, public awareness on GBVF, is an ongoing responsibility of the NPA. The Department of Economic Development and Tourism's Human Rights Implementation Plan is to be incorporated into the Western Cape Government GBV Implementation Plan, in conjunction with the National Strategic Plan on Gender-Based Violence and Femicide, the Western Cape's Provincial Strategic Plan 2019 – 2024 (PSP), as well as the Western Cape Safety Plan.</p> <p>The Department of Economic Development and Tourism's (DEDAT) Human Rights implementation plan is focusing on the following Pillars with regard to Sexual Harassment, Gender Based Violence and Gender Mainstreaming:</p>

Theme	Recommendation	South Africa's Response
		<ul style="list-style-type: none"> • Creating an organisational culture of gender sensitivity. • Empowering woman to understand their worth and their rights. • To raise awareness on sexual harassment. • Understanding the rights of GBV victims • Provide basic self-defence tools. • Employees understanding their rights. <p>Interventions and activities are incorporated into planning thorough the entire year, based on the needs of the department.</p> <p>Active Employee Health and Wellness Programme in place for counselling to employees who are in need.</p>
	Implement and financially support civil society organizations conducting awareness-raising programmes for the general public, political, traditional and religious leaders, initiators, the CNL and the media to promote understanding of the criminal nature of all forms of domestic violence, including psychological and economic violence, rape and harmful practices and the incompatibility of certain cultural practices with women's rights, and address the stigma faced by victims;	<p>The Department of Traditional Affairs in partnership with the Commission for Gender Equality conducted workshops with members of the Provincial Houses of Traditional and Khoi-San leaders in all Provinces. The workshop focused on GBVF and other related matters such as the Recognition of Customary Marriages Act. Traditional leaders were also equipped with information on how to react and solve problems relating to sexual violence and GBVF in their communities. Video footages and life events such as photos were used during the workshop to make the workshop more relevant. Traditional leaders were also encouraged to organise and hold meetings with boys in their communities and engage further on issues of GBVF.</p> <p>Various Provinces conducted their own GBV dialogues with Traditional leaders and in some cases with rural women and the focus ranged from GBV, toxic gender norms, sexual harassment, patriarchy, teen pregnancy and Ukuthwala.</p> <p>Members of the National House of Traditional and Khoi-San leaders also participated in dialogue to combat drug abuse in Mpumalanga. Participants included Business, Government Departments and Local municipalities.</p> <p>A Women's Dialogue was hosted on 31 August 2020 and dealt with issues of GBV.</p> <p><i>Provincial Government</i></p> <p>Western Cape province conduct One Voice Campaign in the Western Cape</p>

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		Limpopo provincial government undertake - GBV Roadshows and Community radio station Slot for people with disabilities every Saturday. Focus on all thematic areas, including GBV and destigmatisation.
		KwaZulu- Natal provincial government is rolling out ongoing campaign “Speak Out” in partnership with the Men’s Forum on addressing stereotypes particularly on patriachial systems and decision. Including workshops at schools, hostels. Led by men at public spaces, across media platforms and public spaces to create opportunities for conversation
	Strengthen educational programmes on women’s rights and gender equality at all levels of education to eliminate stereotyped gender roles and sensitize girls and boys on the harm caused by GBV;	<p>The South African Police Services conducted a total of 823 awareness campaigns, countrywide, to educate learners at schools, churches and the general community concerning GBVF-related crimes during the financial year 2020/21. The aim of the awareness campaigns was to encourage communities to report such crimes to the SAPS. Furthermore, FCS Units, countrywide, conducted a total of 8 459 suspect tracing operations, which resulted in a total of 13 171 arrests.</p> <p>Public awareness campaigns are undertaken throughout the year to address GBV. During the 16 Days of Activism against Gender-Based Violence campaign, 46 of the TCC sites participated in various GBV and femicide (GBVF) discussion topics, webinars, radio talk shows and community awareness campaigns. An estimated 130 events took place during this campaign in 2020/21 financial year.</p> <p>The right to basic education is afforded to all children within South Africa – including non-nationals. The Bill of Rights in our Constitution obliges government to progressively make education available and accessible through reasonable measures.</p> <p>In support of this right, DBE has various interventions that supports the curriculum through creating an enabling conducive environment for learners in schools. The work is guided by the Care and Support to Teaching and Learning (CSTL) Framework ensuring that learners in schools are provided with a conducive environment so to deal with addressing barriers to teaching and learning.</p> <p>The Protocol for Management & Reporting of Sexual Abuse & Harassment in Schools is part of the systemic response to the growing scourge of sexual abuse and harassment. The Protocol provides a guide to the management and reporting of sexual abuse and harassment perpetrated against learners. It responds to the need for a standardised response to learners’ allegations of incidents of sexual abuse and harassment, whether they are perpetuated by fellow learners, educators or other persons. The Department found it essential to review the full version of the Protocol to provide a summary of its contents and develop an abridged version, using simpler and clearer language for learners</p>

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		<p>and parents. The abridged version was the used to develop a fact sheet on the Protocol with clear guidelines on how it can be used to ensure that schools use child protective approaches to manage and report incidents of sexual abuse and harassment timeously and effective.</p> <p>With regards to discrimination and gender identity, the department is finalising Guidelines for the socio-educational inclusion of Diverse Sexual Orientation, Gender Identity, Expression and Sex Characteristics (SOGIESC) in schools. Broadly speaking, these guidelines aim to ensure that schools are addressing and eliminating discrimination, harassment and victimisation, and in turn, to advance equality of opportunity regardless of sexual orientation, gender identity, expression and sex characteristics.</p> <p>Department of Basic Education (DBE) also aims to provide a teaching and learning environment that goes beyond the cognitive focus to support young people's social and psychological development, as well as emotional support and interaction with their peers in a cohesive and structured manner. As the custodian of basic education, the DBE is acutely aware that the social and emotional well-being of learners contributes significantly to academic success. Comprehensive Sexuality Education (CSE) provides opportunities to explore one's own values and attitudes and to build decision-making, communication and risk reduction skills about many aspects of sexuality. CSE emphasizes an approach that encompasses the full range of information, skills and values to enable young people to exercise their sexual and reproductive rights and to make decisions about their health and sexuality.</p> <p>The Department of Basic Education has various structural interventions that it employs to deal with human rights, including on gender equality, role of boys/men etc. in preventing violence. One such intervention is the Adolescent Girls/Boys and Young Women/Men (AGYW/ABYM) which aims at offering a comprehensive package of services that aim to improve the health, psychosocial and socio economic well - being of both girls/boys.</p> <p>Though the focus with the Techno-Girl is more biased on girls, boys are being considered to form part of the programme. Techno-Girl has a deliberate focus on Science, Technology, Engineering and Mathematics (STEM). Consequently, it contributes towards creating a significant pool of women from disadvantaged communities, with qualifications in STEM and which are critical to the Fourth Industrial Revolution (4IR). More importantly, after completing of the schooling phase of the programme, girls are motivated and supported to pursue studies in STEM-related careers. Ultimately the programme aligns with the priorities of inclusion: the eradication of poverty and inequality.</p>

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		<p>Capacity building and training is ongoing and in line with the departmental Human Rights Implementation plan.</p> <p>The department, through the CRU unit is dedicated to address matters relating to gender equality and GBVF.</p> <p>Standing Gender Equity task team meetings take place on a quarterly basis, with departmental meetings taking place every 6 months.</p> <p>The Department is represented at the Transversal GVB Forum.</p> <p>To date the following interventions took place:</p> <ul style="list-style-type: none"> • An internal newsletter has been issued, dedicated to the 16 days of activism. • Sexual Harassment officer appointed. • Awareness sessions held, targeting youth and interns on sexual harassment. • Employees attended training on LGBTQ. • Employees attended GE webinars & interventions – transversal. • Attended National Disability machinery workshop. • 60-70% employees trained on SH. • PAYE interns attended “DEPP GM workshop for Youth”. • Human Rights Mainstreaming Plan was developed. <p><i>Provincial initiatives</i></p> <p><i>KwaZulu-Natal (KZN) Provincial Government</i></p> <p>Implementing programs at school targeting teachers and educators. Particularly as educators are victims of GBV, impacting on performance. Will be training the teachers at district level in September 2022, with office of the premier on GBV. Summit looking at Intimate Partner Violence, supported by the DSD and relevant partners.</p> <p><i>Limpopo Provincial Government</i></p> <p>Through SAPS, adopt a school where they are making awareness son GBV in the schools.</p>

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	Raise awareness among police officers, social workers, teachers and lecturers of their duty to report child abuse in their communities and sexual violence, including intimate partnership violence, at universities, respectively;	<p>The National Prosecuting Authority in South Africa (Sexual Offences and Community Affairs (SOCA)) successfully delivered crucial training sessions nationally on virtual platforms, focusing on sexual offences, domestic violence, maintenance, child justice, trafficking in persons and integrated stakeholder training at TCC sites. Together with experts from various academic institutions, SOCA designed and developed a Court Report Training Manual encompassing all forms of expert assessment reports required in court and the submission of reports and viva voce evidence by experts in court.</p> <p>The use of court preparation officers by the NPA to prepare witnesses for court is an initiative aimed at empowering witnesses and victims and reducing secondary trauma. In the reporting period, 55 579 witnesses were assisted by the court preparation officers and 4 189 victim impact statements were facilitated. Witnesses appearing in all criminal courts are assisted, however, the bulk of the witnesses are in respect of regional courts cases (83.6%) with a particular focus on witnesses in sexual offences cases (53%).</p> <p>Capacity building is on-going with social workers of funded Non-Profit Organisations and Department of Social Development staff.</p> <p>Limpopo provincial government and other provinces conduct GBV and Child Protect Week Roadshows. Creating awareness on GBV and Children Care and Protection. DBE and Schools were part of the engagements,</p>
	Implement sustained drug abuse and alcoholism treatment and education programmes in communities and schools.	<p><i>Commemoration of the International Day against Drug Abuse and Illicit Trafficking</i></p> <p>South Africa as a signatory to the United Convention, annually commemorates the International Day against Drug Abuse and Illicit Trafficking to create awareness on the dangers of alcohol and drug abuse and encourage communities to take action in fighting the scourge of substance abuse.</p> <p>In 2020/21 financial year due to COVID19 pandemic, the department commemorated the International Day against Drug Abuse and Illicit Trafficking through a Substance Abuse webinar under the national theme “Value yourself and make healthy choices against alcohol, tobacco and drug abuse to minimize the spread of COVID-19. The highlighted the harmful effects of substance abuse as well as the link between substance abuse and COVID-19.</p> <p>The department also provided information sessions on the risk associated with alcohol drinking during pregnancy targeting youth and women of child</p> <p>In line with its mandate outlined in the national health sector drug master plan, the Department of Health implements a comprehensive package of substance use control</p>

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		<p>measures that cover the entire public health continuum- from primary prevention and risk reduction to early intervention, treatment, care, recovery, rehabilitation and social reintegration that is grounded in the fundamental public health precepts of equity, social justice and human rights.</p> <p>The initiative was done to eliminate and minimise the risk of Foetal Alcohol Syndrome. Furthermore, pregnant women who drink alcohol were provided with brief counselling and referred for further intervention.</p> <p><i>Education and awareness at Institutions of Higher Learning.</i></p> <p>The Department implemented National Anti-Substance Abuse Awareness campaigns to create awareness on the harmful effects of substance abuse, gender based violence and social crime in institutions of higher learning, schools and communities.</p> <p><i>Festive Season Campaign</i></p> <p>This campaign serves to remind communities about the dangers of alcohol and substance abuse during festive season because many lives are lost in road accidents caused by drinking and driving. Young people get involved in irresponsible sexual behaviour which could lead to different sexual transmitted infections and unwanted pregnancies because of the abuse of alcohol and drugs. The campaign targets shopping malls, taxi and bus ranks, train stations, toll gates, beaches, and also participating in door to door campaigns, fun walks, roadblock blitz in partnership with other relevant stakeholders in the field of substance abuse.</p> <p><i>Conference on Substance Abuse and Family Related Interventions</i></p> <p>It was held on 31- 02 November 2019 in Gauteng Province (Birchwood Conference Centre). The theme of the conference: “The impact of substance abuse on Families”. The main objective was to create a platform for delegates to share information and views regarding substance abuse challenges and dynamics affecting families. The target of the conference was 350 inclusive of Political leaders, Government departments, NGO's, CBO's, FBO's, Research Institutions, Disability Sector, Treatment centres, African Union, SADC Region and International countries. Twelve (12) resolutions were adopted out of the conference. These resolutions are implemented through the National Drug Master Plan 2019-2024.</p>

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		<p><i>Ke Moja Drug Awareness Programme</i></p> <p>The Department of Social Development is continuously implementing the Ke Moja Drug Awareness Programme. Ke Moja is a national programme aimed at raising awareness among South African communities on the dangers of drug abuse and providing alternative healthy lifestyles through education and counselling. The programme has since been evaluated and reviewed in 2011/12 to enhance its content and also accommodate emerging trends in the field of substance abuse. The target for the programme includes children, youth, parents and care givers. To date, five provinces has been capacitated on the reviewed programme and the remaining four provinces will be capacitated in 2021/22 financial year.</p> <p><i>Siyalulama Outreach Programme</i></p> <p>The purpose of this programme is to take services to people who are affected by the Substance Use Disorders and who cannot take initiative in reaching out for such services. During 2021/22 financial year, the outreach programme was conducted at Hamanskraal, Bronkhorspruit, Tembisa, Dobsonville, Charlestown and Newcastle. The Department will continue with the outreach programme during 2021/22 financial year.</p> <p><i>Treatment Programme</i></p> <p>The department of Social Development has adopted the Universal Treatment Curriculum (UTC) since 2019. The aim of the curriculum is to assist countries cadres in the field of substance abuse to increase their skills, knowledge and capacity relating to prevention, treatment, care and support. The curriculum has been Internationally Certified for Addiction Profession (ICAP) cadres in the field of substance abuse. To date, twenty-five (25) Master Trainers have completed ICAP1 training, passed exams and are now certified addiction counsellors. The department has also echo trained more than 260 cadres who will be writing exams before the end of September 2021. The curriculum is implemented in three public treatment centres since 2020 and has been extended to four more additional centres in 2021/22 financial year. Access to treatment services was increased through the building of treatment centres in all provinces. There are 13 public treatment centres in the country. Nine (9) of the public treatment centres admit women, men, youth and children in a demarcated ward.</p> <p><i>The National Drug Master Plan 2019 – 2024</i></p> <p>The National Drug Master Plan 2019 – 2024 was approved by Cabinet in October 2019. The plan advocates for the reduction of demand for drugs in communities. Provincial Substance Abuse Forums were capacitated to prevent those who have not started using</p>

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		<p>drugs and treat those who have started using drugs. During capacity building workshops the emphasis under demand reduction were the following:</p> <ul style="list-style-type: none"> • Individual oriented strategies such as community-based and participatory educational programmes, whereby the participants are trained to counter social pressure; • Environment oriented strategies such as participatory efforts to redress socio-economic deprivation and increase opportunities for non- risky activities; • Specialised and broad-brush clinical services that provide short and long – term therapy as well as other services such as medical treatment, occupational training that are aimed at reducing drug related harms, disability, enhance rehabilitation, prevent relapses and recurrences of drug misuse and Substance Use Disorders, and • Community – based information campaigns that assist the public to detect risky drug use early and access appropriate services. <p>The National Drug Master Plan 2019 – 2024 prioritised populations for interventions as follows:</p> <ul style="list-style-type: none"> • Youth in and out of school/ institutions of higher learning; • Children; • Women; • Persons with disabilities; • Pregnant women; • Families in all their manifestation including child – headed families; • Disadvantaged people in vulnerable communities; at risk (such as artists, athletes and professionals), and • Key populations (such as LGBTIQ, sex workers, migrant workers etc.). <p><i>Provincial Interventions</i></p> <p>Limpopo Provincial Government created awareness in school regarding bullying and substance abuse in February 2022.</p>

Theme	Recommendation	South Africa's Response
Accountability and data collection	Establish accountability mechanisms and a system to monitor and evaluate the implementation of the NSP and regularly collect, analyse and publish disaggregated statistical data on the number of complaints about all forms of domestic violence, the rates of dismissal and withdrawal of complaints, including upon reconciliation, the rates of prosecution and conviction, the sentences imposed on perpetrators and the reparations provided to victims.	<p>A Monitoring and Evaluation Framework over the five-year interval (2020-2024) has been developed to guide systems and processes for tracking, assessing, and reporting the results of the interventions outlined in the NSP on GBVF (2020 -2030)</p> <p>The Framework outlines the theory of change, technical indicator definitions, data flow processes, roles and responsibilities, and the requisite capacity to implement.</p> <p>This process is further supported by the development of a communication strategy; a comprehensive national prevention strategy for GBVF; and costing of the NSP on GBVF.</p> <p>All this processes are strongly supported by technical expertise from development partners.</p> <p>Reporting tools have been developed and reporting mechanisms established. Weekly monitoring reports were piloted from June 2020 to institutionalise the process of reporting on progress. From February 2021 progress reports on implementation are submitted to the President on a monthly basis as a process of timely assessment of progress and identification of areas of improvement. Processes are in place to strengthen reporting by other sectors other than government. The focus is on civil society organisations.</p> <p><i>GBVF Human Resources and Technical Support</i></p> <p>The process of localising the NSP on GBVF is in progress. Provinces are showing urgency in establishing or revitalising multi-sectoral provincial, district and local coordinating structures; developing implementation plans and coordinating implementation and reporting.</p> <p>Through the support from European Union gender equality and women's empowerment programme, additional capacity is being brought on board to strengthen institutionalization of the NSP on GBVF and the Gender-Responsive Planning, Budgeting, Monitoring and Evaluation and Auditing Framework capacity across government. Through this programme monitoring and evaluation specialists and data capturers are being employed to bolster capacity to drive the NSP on GBVF as province level as well as the establishment and functioning of multi-sectoral rapid response structures at local levels.</p> <p>In order to ensure that there are no delays in the implementation of the NSP on GBVF, a Technical team has been appointed on a contract basis at the national level to serve as a</p>

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		<p>secretariat in the absence of the NCGBVF and to drive engagements of all stakeholders with a particular focus on civil society engagement.</p> <p>The NPA SOCA Unit has a comprehensive TCC data collection tool in place to monitor and evaluate the performance of services at TCC sites including related prosecution and court services of these cases.</p> <p><i>Provincial Government</i></p> <p>The Western Cape Government drafted a Provincial Gender based violence implementation plan aligning to the NSP GBV&F, and was signed off by the WCG cabinet in September 2020. Quarterly feedback is provided by the different WCG departments per pillar, as indicated in the NSP.</p> <p>KwaZulu Natal Provincial Government developed a 5-year plan on GBVF extracted from NSP in the province approved in February 2022.</p> <p>Identified and appointed personnel in provinces for data capturing. Technical Committee on GBV in the Province, meeting bi-monthly.</p> <p>Limpopo Provincial Government established the GBVF Forum. Meeting quarterly and developed an implementation plan with specific pillars. Supported by 2 Universities (University of Limpopo and University of Venda and Chapter 9 institutions. Dedicating June Month to raise awareness on bullying, substance abuse and GBV across the District.</p> <p>DWYPD conduct 16 Days Activism on No Violence against women and children across all 9 provinces.</p> <p>Women's Month across all 9 provinces creating awareness on issues affecting women and children.</p> <p>Government monitors compliance with the Domestic Violence Act, with an emphasis on the following:</p> <ul style="list-style-type: none"> • Focusing on cases withdrawn in court and making proposals for re-enrolment of such cases. • Monitor.GBV@westerncape.gov.za is activated and emails forwarded to that address is attended to either by the unit or by referral to the correct stakeholders.

<i>Theme</i>	<i>Recommendation</i>	<i>South Africa's Response</i>
		<ul style="list-style-type: none"> • High profile GBV and domestic violence cases referred by Minister or HoD are placed on an active list so that the matters are not struck off the court rolls. • A GBV booklet and poster was created to facilitate an awareness of GBV and the services available to victims.
	Conduct research and a dedicated survey on GBV to obtain more reliable data on the extent and economic impact of GBV, including domestic violence, in the State party.	<p>A Multi-Disciplinary Research Technical Team has been established under Pillar 6 of the NSP focusing on GBVF. This is a collaborative platform which includes government, academic institutions, research institutions, and civil society organisations. A number of research initiatives has been planned and are under way focusing on GBVF.</p> <p>The Department of Social Development Research Conference “Why men are Angry” relating to GBV. Included focus groups and findings from the engagement.</p> <p>Non –State (Scholar masters Level) – Research on GBV on inmate incarcerated for 20years plus at Westville and Maritzburg Correctional Services.</p>