



**Convention on the Elimination
of All Forms of Discrimination
against Women**

Distr.: General
6 October 2021

Original: English
English, French and Spanish only

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

Eightieth session

18 October–12 November 2021

Item 4 of the provisional agenda

**Consideration of reports submitted by States parties under
article 18 of the Convention on the Elimination of All Forms of
Discrimination against Women**

**Replies of South Africa to the list of issues and questions in
relation to its fifth periodic report***

[Date received: 5 October 2021]

* The present document is being issued without formal editing.



Introduction

Specific recommendations and government responses visibility of the convention and the optional protocol

In light of the Committee's previous concluding observations (CEDAW/C/SAF/CO/4, para. 13 (b)), please specify the measures taken to raise awareness among women, including disadvantaged groups of women about their rights under the Convention and of the complaints procedure under the Optional Protocol. Please also specify measures taken to provide systematic capacity building/regular training to Members of Parliament, parliamentary staff, judicial personnel and law enforcement personnel on the application of the Convention and/or interpretation of national legislation in the light of the Convention.

Response

1. In April 2019 OHCHR in partnership with the Department of Justice and Constitutional Development DOJCD (currently renamed to the Department of Justice and Correctional Services) conducted a training workshop for government and civil society organisation and the focus of the workshop was on CEDAW.
2. The High Level Steering Committee on Gender Responsive Policy, planning, Budgeting, Research, Monitoring and Evaluation has been established and the women instruments such as CEDAW were presented and discussed with the participants from government and the civil society actors.
3. The consultation process for the development of the International Relations Strategy for the Department of Women Youth and Persons with Disability also provided an opportunity for the department to share human right instruments for women to which CEDAW was part.
4. A national roadshow or outreach programme on international, continental and regional women's human rights instruments was planned for the 2021/2022 financial year but due to Covid-19 pandemic the programme has not been implemented. This nationwide programme will be conducted annually by government in partnership with the civil society actors.

Constitutional and legislative framework

According to the State party's report (para. 16), the State party's Constitution has a mixed approach to the incorporation of international law into the country's domestic law, and a dualist approach is applied by the State party which means that international law is not directly applicable domestically. What measures are in place to ensure that the provisions of the Convention are applied in the State party and integrated into domestic law? Adoption of a comprehensive anti-discrimination against women law that contains a definition of discrimination against women in accordance with article 1 of the Convention, covering direct and indirect discrimination in the public and private spheres, including intersecting forms of discrimination, in accordance with article 1 of the Convention.

Response

5. The Constitution of the Republic of South Africa provides for non-discrimination on the grounds of gender. Further anti-discriminatory legislation falls outside the mandate of the Chief Directorate: Promotion of the Rights of Vulnerable Groups and information will be requested from the Legislative Development Branch and the Constitutional Development Branch to provide any available information regarding the issue.

6. PRVG will however, provide information on the Domestic Violence Act and its Amendment based on consultations that were held with the Legislative Development Branch of the DoJ&CD.

“Please also specify any measures taken to redefine all forms of domestic violence against women and girls as a criminal act and impose sanctions, and to finalise the Domestic Violence Act amendment in line with article 1 of the Convention and general recommendations ...”

7. The DoJ&CD has embarked on the Legislative Reforms by developing and finalizing a package of three important interrelated Bills aimed at fighting the scourge of violence against women and children. The three Bills are:

- (a) Domestic Violence Amendment Bill;
- (b) Criminal and Related Matters Bill;
- (c) Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill.

Domestic Violence Amendment Bill

8. 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

Functionary's obligation to report domestic violence

9. 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.

Adult obligation to report domestic violence

10. 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.

Domestic Violence Safety Monitoring Notice

11. Clause 4A(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.

Electronic Communications Service Providers to assist courts

12. 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.

13. 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 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.

Director-General to develop an electronic repository of domestic violence protection orders

14. 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.

Directives for clerks of the court

15. 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.

Provision of legal aid at State expense

16. Clause 19(1) of the 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.

Key intervention 2: multi-sectoral coordination*Directives by various stake-holder departments*

17. Clause 18B of the Bill 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:

(a) In consultation with Cabinet members responsible for health, social development, basic education, higher education, science and innovation, police and communications and digital technologies; and

(b) 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.

Criminal and Related Matters Bill

18. The primary aim of the Bill, is to amend numerous Acts, which are intended to:

(a) Address gender-based violence and its related offences; and

(b) Provide for additional procedures to reduce secondary victimisation in court proceedings

19. The Bill provides for stricter bail and sentencing provisions, as part of initiatives to strengthen the legislative framework in the fight against gender-based violence and femicide. It brings amendments to the Magistrates' Courts Act, 1944; the Superior Courts, 2013; the Criminal Procedure Act, 1977 (the CPA); and the Criminal Law (Minimum Sentences) Amendment Act, 1997 (CLAA), to address inadequacies in those laws to deal with gender-based violence and femicide-related offences and to afford protection to victims of such offences against victimisation during legal proceedings.

20. The Bill will contribute towards the achievement of one of the outcomes of Pillar 1 of the NSP, namely:

“All living in South Africa, including government, the private sector, workplace, education and training institutions, CSOs, religious and cultural institutions are held accountable for building a safe and GBVF free environment”.

21. Clause 4 of the Bill amends section 60 of the Criminal Procedure Act, 1977 which deals with bail application proceedings.

22. Clause 4 (a) requires a prosecutor to place on record the reasons for not opposing a bail application in respect of an offence – committed against a person who is in a domestic relationship with the accused; or related to the violation of a protection order which was issued by a court to protect the person against whom the offence in question was allegedly committed, from the accused.

23. Currently prosecutors are required provide reasons for not opposing bail applications only in respect of Schedule 5 and Schedule 6 offences.

24. The Department is of the view that the proposed amendment will ensure that prosecutors applies their minds when considering whether or not to oppose a bail application in respect of an offence that is related to gender-based violence or femicide.

25. Clause 4 (a) is the only provision which can be directly linked to Pillar 1 of the NSP.

Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill

26. Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) (“the principal Act”), aims to regulate the management and administration of the National Register for Sex Offenders (“the NRSO”). It requires that the particulars of persons who have been convicted of sexual offences against children and persons who are mentally disabled be recorded in the NRSO. The Chapter places a prohibition on the aforementioned persons to work with or to be placed in circumstances where they have access to children or persons who are mentally disabled. Employers are required to vet existing employees and those who apply for work against the NRSO in order to determine whether they are suitable to work with children or persons who are mentally disabled, or not. Furthermore, The Bill, which seeks to extend the protection afforded in terms of Chapter 6 and to introduce a new offence of sexual intimidation and to extend the ambit of the offence of incest.

27. The Civilian Secretariat for Police Service (CSPS) has developed the following two policies:

- Policy on reducing barriers to reporting of sexual offences and domestic violence, (2017) – this policy aims to bridge the gap between reported and unreported incidents of domestic violence and sexual offences. Furthermore, it aims to strengthen attempts for effective prevention and response by key role-players and to ensure that any barriers that may prevent or deter victims from reporting are identified, addressed and removed;
- Policy on investigation and management of serial rape and serial murder, (2016) – the main objectives of this policy is to bring in line the existing structures, (such as the DNA Database, the Serial DNA Team, the Investigative Psychology Section and trained investigators) and to implement new structures,

(such as permanent serial investigation task teams and monitoring systems) in order to ensure that the serials are identified early and properly investigated by qualified investigators in a consistent manner throughout the country.

28. The CSPS has the responsibility to monitor performance of the police service and regularly assess the extent to which the police service has adequate policies and effective systems and to recommend corrective measures. The police service, has thus developed a number of internal policies which are aimed at assisting members of the police service in enhancing their response to gender based violence. These include:

- National Instruction on domestic violence, (7 of 1999) – which aims to provide clear direction to a member on how to respond to a complaint of domestic violence in order to comply with the obligations imposed upon him or her in terms of the Act;
- National Instructions on sexual offences, (3 of 2008) – to ensure that members render a professional service to victims in respect of the investigation of offences of this nature and to assist victims in this regard;
- National instructions on trafficking in persons, (4 of 2015) – which is intended to provide clear direction to a member on how to render the necessary assistance and protection to trafficked victims and to investigate the offences referred to in the Act.

29. The CSPS continuously monitors implementation of these policy frameworks and related legislations by the police and further provides recommendations to improve police performance.

According to paragraph 20, the Green Paper towards Women’s Empowerment and Gender Equality Bill lapsed in April 2014. In accordance with the State party’s obligations under articles 1 and 2 of the Convention and target 5.1 of the Sustainable Development Goals to end all forms of discrimination against all women and girls everywhere, please indicate whether the State party has adopted a comprehensive anti-discrimination against women law that contains a definition of discrimination against women in accordance with article 1 of the Convention, covering direct and indirect discrimination in the public and private spheres, including intersecting forms of discrimination, in accordance with article 1 of the Convention.

Response

30. South Africa adopted the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (2019/20 – 2023/24). The Action Plan provides a definition of discrimination against women as follows: *“Gender-based discrimination as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”*.

31. This definition is aligned with the definition of discrimination against women in accordance with article 1 of the convention.

Please indicate any measures in place for its effective implementation, gender expertise for the draft legislation, monitoring and enforcement.

Response

32. Legislations are developed by line function departments. According to a survey conducted by the Department of Public Service and Administration in 2019, 75 per cent of the departments reported that the Gender Unit/focal point provide inputs on the development or implementation of policies/projects in their respective sectors.¹

Please also specify any measures taken to redefine all forms of domestic violence against women and girls as a criminal act and impose sanctions, and to finalise the Domestic Violence Act amendment in line with article 1 of the Convention and general recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19. Please also inform the Committee about the efforts to amend or repeal discriminatory provisions of the legislation.

Response

33. South Africa introduced the Domestic Violence Amendment Bill which was published for public comments in August 2020 (Government Gazette No. 43595 of 7 August 2020). The Bill was published to amend the Domestic Violence Act, 1998 (Act No 116 of 1998) so as to:

- (a) Amend and insert certain definitions;
- (b) Further provide for the manner in which acts of domestic violence and matters related thereto, must be dealt with by certain functionaries, persons and Government departments;
- (c) Further regulate obtaining of protection orders in response to acts of domestic violence; delete and amend provisions of certain laws; and • provide for matters connected therewith.

34. Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill was introduced in August 2020 to amend the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, so as to:

- (a) Extend the ambit of the offence of incest;
- (b) Introduce a new offence of sexual intimidation;
- (c) Further regulate the inclusion of particulars of persons in the National Register for Sex Offenders;
- (d) Make provision for certain particulars of persons who have been convicted of sexual offences to be made publicly available;
- (e) Extend the list of persons who are to be protected in terms of Chapter 6 of the Act;

¹ Public Service Woman Management Week Report 2019; Department of Public Service and Administration.

(f) Further regulate the removal of particulars of persons from the National Register for Sex Offenders; and

(g) Further regulate the reporting duty of persons who are aware that sexual offences have been committed against children, and

(h) To provide for matters connected therewith.

35. South African state also introduced amendments to the Criminal and Related Matters Amendment Bill, [B17-2020] in 2020 and published for public comments. This Bill is introduced so as to amend:

(a) 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;

(b) 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;

(c) The Criminal Law Amendment Act, 1997, so as to further regulate sentences in respect of offences that have been committed against vulnerable persons; and

(d) 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 proceedings other than criminal proceedings, and to provide for matters connected therewith.

National Human Rights Institution

Information on the mandate of the South African Human Rights Commission in relation to women's rights, and its human, technical and financial resources.

Response

36. The SAHRC derives additional legal mandate from the Human Rights Commission Act 54 of 1994; the Promotion of Access to Information (PAIA) Act 2 of 2000; and the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. The SAHRC derives the mandate in relation to women's rights from the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA), which relates to special measures to promote equality with regard to race, gender and disability. The Commission promote compliance with PEPUDA and produces equality reports on annual basis. Section 25 (5) (a) of the PEPUDA prescribes the submission of equality plans to the SAHRC to be dealt with in the prescribed manner, in consultation with the Commission on Gender Equality, Section 28 (2) requires the SAHRC to assess and report on the extent to which unfair discrimination on the grounds of race, gender and disability persist in the Republic, the effects thereof, and recommendations on how best to address the problems.²

² South African Human Rights Commission Annual Report for the year ended 31 March 2019.

Measures taken to strengthen the South African Human Rights Commission, to be able to effectively and independently discharge its mandate in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), including by increasing State funding, as well as by undertaking legislative changes to (a) provide for a clear, transparent and participatory selection process, (b) establish a fixed term of appointment for its members, (c) provide for a specific legal mandate to monitor places of detention, and (d) provide for an independent and objective dismissal process.

Responses

37. The Commission consist of 08 Commissioners supported by 190 positions in secretariat. As at 2020, the commission comprised of 180 personnel. Each Commissioner is assigned a specific province and United Nations treaty body.

38. The Commissioners are the public face of the Commission, representing the organisation at national, regional and international fora. They also interact with local communities and stakeholders at the national level in order to address human rights issues. In addition to the policy and legislative mandates of the Commission, Commissioners have adopted a document called the Human Rights Matrix. The Human Rights Matrix tracks the various human rights obligations of South Africa at the international, regional and domestic levels. It is a tool that assists in identification of the Commissioners' strategic focus areas and priorities. It assists in identifying the unique role of the Commission as a national human rights institution.

39. The SAHRC is a leading champion of human rights both within South Africa and regionally within the African continent and has achieved global recognition. The Commission has full speaking rights in the UN Human Rights Council. The Commission also played a leading role in establishing the Network of African National Human Rights Institutions (NANHRI) and the Global Alliance of National Human Rights Institutions (GANHRI) and was elected to chair both bodies in recognition of its role and stature in the global community of human rights institutions.

Specific responses

Provide a clear, transparent and participatory selection process

Response

40. In case the South African Human Rights Commission has a vacancy for a commissioner position, the Speaker of National Parliament refers the vacancy to a Committee. The Committee advertises the vacancy in newspapers and Parliament website. The advert calls for nominations or applications from individuals, organisations, institutions and civil society for suitable persons to be recommended for appointment as full-time Commissioners to the South African Human Rights Commission (SAHRC).

41. Once the Curriculum Vitae are received, they are posted on the website to allow members of the public to comment on the suitability of people. This is followed by Shortlisting; Suitability screening (Vetting); Interviews; Deliberations and recommendations.

42. The committee also specifies if the person is appointed for a full term or just to finish the term of a person being replaced.

Establish a fixed term of appointment for members of the Commission

Response

43. In accordance with the provisions of the Human Rights Commission Act and Constitution, the National Assembly may recommend persons for appointment for a fixed term, as the President may determine at the time of such appointment, but not exceeding seven years.

Provide for a specific legal mandate to monitor places of detention

44. The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment creates an absolute prohibition of torture in international law. States are obliged to prevent torture and ill-treatment. South Africa is a state party to the convention. As such, this prohibition is also articulated in section 12 of our Constitution, as well as the Prevention and Combating of Torture of Persons Act. In September 2006, South Africa signed but did not ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was drafted to strengthen the original prohibition.

45. South Africa completed the ratification process in respect of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on 20 July 2019. At the core of OPCAT is the prevention of torture.

46. Because South Africa is now a party to the optional protocol of the convention, the UN subcommittee for the prevention of torture's mandate has been triggered. This mandate has two elements. The protocol gives the subcommittee the right to visit all places of detention in states that are party to the operational protocol and examine the treatment of people held there. The subcommittee may also choose to visit states in which people are deprived of their liberty.

47. The National Preventive Mechanism (NPM) for South Africa, established under OPCAT, is coordinated by the South African Human Rights Commission (SAHRC) and has unrestricted access to all places of detention. Its role is to provide independent monitoring and recommend systemic changes in order to reduce the risk of torture and cruel, inhuman or degrading treatment or punishment. The National Preventive Mechanism (NPM) was established in 2019 and the responsibility of leading the NPM has been assigned to the South African Human Rights Commission (SAHRC) by the Parliament of the Republic of South Africa after extensive consultation and benchmarking involving existing oversight bodies and civil society at the national and international levels.

48. In South Africa, A number of bodies, such as the Judicial Inspectorate for Correctional Services (JICS) have been set up through legislation to perform oversight over correctional centres.

49. Section 13 (1)(b)(iii) of the South African Human Rights Commission (SAHRC) Act already recognises the role and permits the participation of civil-society organisations in the work of the SAHRC. In this regard, it is envisaged that civil society will be an integral part of providing support to the NPM, including research and data verification. Civil Society also includes professionals such as medical doctors who have the expertise essential for the functioning of the mechanism. Mutually beneficial relationships will thus be established.

50. On that basis, the government has designated a multiple-body national preventive mechanism, to be co-ordinated by the SAHRC. Under the co-ordinating leadership of the SAHRC, the South African NPM will include institutions such as the JICS, the Independent Police Investigative Directorate, the Military Ombud and the Health Ombud.

51. Report of the South African Human Rights Commission published the first report on the Implementation of the OPCAT in South Africa (2019/20) in July 2020.

Provide for an independent and objective dismissal process

52. Section 3 of the Human Rights Commission (Act 54 of 1994) refers to Section 194 of the Constitution of South Africa on the dismissal process.

53. Section 194 of the Constitution of the Republic of South Africa prescribes the process of removal of members of a commission. Sub-section (1) provides the ground/reasons for removal:

- (a) The ground of misconduct, incapacity or incompetence;
- (b) A finding to that effect by a committee of the National Assembly; and
- (c) The adoption by the Assembly of a resolution calling for that person's removal from office.

54. Sub-section (2) provides that:

- (a) A resolution of the National Assembly concerning the removal from office of a member of a Commission must be adopted with a supporting vote of a majority of the members of the Assembly.

55. Sub-section (3) provides that; the President (a) may suspend a person from office at any time after the start of the proceedings of a committee of the National Assembly for the removal of that person; and must remove a person from office upon adoption by the Assembly of the resolution calling for that person's removal.

Access to justice

Data on the share of complaints related to intersecting forms of gender-based discrimination and violence against women and girls received by the Equality Courts, the nature of such complaints and the share of cases referred to alternative forums, disaggregated by race, ethnicity, age, disability, nationality, socio-economic status, albinism and other status of the complainant.

Response

Complaints lodged at Equality Court³

<i>Complaint</i>	<i>2018/19</i>	<i>2019/20</i>
Hate Speech	140	260
Unfair Discrimination	258	240
Harassment	22	59
Dissemination and Publication that Unfairly Discriminates	10	24

³ Department of Justice and Constitutional Development Annual Report 2019/20.

<i>Complaint</i>	<i>2018/19</i>	<i>2019/20</i>
Unfair Discrimination and hate Speech	28	13
No indication	0	8
Hate Speech and Harassment	2	7
Unfair Discrimination and Harassment	5	6
Hate Speech, Dissemination and Publication that Unfairly Discriminates	7	1
Grand Total	247	621

Status of the second iteration of the Traditional Courts Bill, approved by the National Assembly in Parliament in March 2019, and specify provisions of the Bill which aim at transforming traditional courts to ensure that they comply with the provisions of the Constitution and the Convention.

Response

56. The Traditional Courts Bill is intended to replace the current legislative framework in terms of which disputes are resolved in terms of customary law, in line with constitutional imperatives and values. It regulates anew the structure and functioning of traditional courts and gives attention to the protection and enhancement of the rights of vulnerable members of society. The Bill was approved by the National Assembly in 2018/19 financial year and referred to the National Council of Provinces for concurrence. During 2019/20 financial period, the 9 Provincial Legislatures and their structures engaged on the Bill. The Bill is still in the National Council of Provinces.

57. Provisions to ensure that women can opt out of proceedings held by traditional courts, and can appeal to the ordinary courts against any decision taken by a traditional court.

According to paragraph 30, Legal Aid South Africa has identified women and children's rights as deserving of special attention in the provision of its legal services. Please provide data about the type of services provided by Legal Aid South Africa to women and girls, disaggregated by multiple grounds, including race, ethnicity, nationality, age, disability, socio-economic status, albinism and other status of the complainant. Please specify any further legal and institutional measures to strengthen access to justice for women and girls who are in vulnerable situations and face marginalization, particularly those living in informal settlements and rural areas.

Response

58. Representation for vulnerable or specialist groups of people in the Legal Aid South Africa 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.

59. Women constituted 57.7 per cent 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 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.

60. Legal Aid SA works with Childline 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.⁴

61. Undertake climate change education and public awareness outreach in rural communities targeted towards the population who live in remote rural outskirts in poverty-stricken conditions, with high levels of illiteracy. This activity will involve identifying vulnerable communities in South Africa and prioritise the outreach towards the most vulnerable. The prioritisation is done due to limited financial resources provided.

62. Lastly, The Department plan on hosting a national dialogue as part of its efforts to raise awareness on the importance of gender and climate change mainstreaming, the dialogue will target civil society/including those at Community level and youth led, business representative.

National machinery

According to paragraph 35 and 36, the Ministry of Women has reviewed its institutional capacity and is putting in place human, financial and technical resources in order to strengthen the monitoring and evaluation-related capacities of its reconfigured Department of Women.

Please specify the human, financial and technical resources allocated for gender equality-related matters to the Ministry of Women, and the number of gender focal points in line ministries and municipal administrations, the level of their posts and locations.

Response

63. As in 2018, just more than half of the Departments (56 per cent) confirmed that they have fully-fledged Gender units. Fifty three percent of the departments reported that the level and location of the Gender Focal Point does allow her/him to participate in decision-making structures & processes of the Department. Many departments (such as the Office of the Chief Justice) reported their influence is strengthened because the gender is supported by the office of the Accounting Officer. The majority of departments (84 per cent) confirmed that they do accommodate the needs of women and men and persons with disabilities through the establishment of Reasonable Accommodation Practices.⁵

⁴ Integrated Annual Report 2019 – 2020; Legal Aid South Africa.

⁵ Public Service Woman Management Week Report 2019; Department of Public Service and Administration.

Please also provide information on the mechanisms in place for the coordination of implementation and monitoring of gender equality concerns at the national, regional and local levels and in the justice system. Please clarify whether there is a national action plan for women that is being developed or implemented, and explain the outcomes in the National Development Plan and its Medium Term Strategic Framework (2014-2019) specifically geared towards achieving gender equality and women’s empowerment. Please also clarify the relationship between the South African Human Rights Commission and the Commission for Gender Equality, and provide further information about its status and the human, financial and technical resources made available to the Commission for Gender Equality.

Response

Temporary special measures

According to paragraph 98, the governing party continues to implement its 50/50 gender representation policy. Please provide examples of how the policy has been implemented to ensure women’s meaningful participation and retention in public and political life. Please also inform about the extent to which temporary special measures to achieve substantive gender equality have been included in other national policies and programmes of the government. Please specify steps taken to develop and implement temporary measures in areas under the Convention in which women are disadvantaged and underrepresented, including in leadership roles at the Chief Justice level and in private sector, as well as in the National Council of Provinces.

Response

64. The Public Service as a workplace is obligated to provide a safe, healthy and amicable working environment and shall take steps to maintain this, either by meeting legal obligations or in terms of what amounts to fair practice.

65. According to Chapter 10 (s 195[1]) of the Constitution of the Republic, Public Administration must be governed by the democratic values and principles enshrined in the Constitution, amongst others including the following principle:

66. Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.

67. The Public Service committed itself to eradicating all forms of discrimination in the workplace which it inherited in 1994 as it was evident that the Public Service then was not truly representative of the society it served. The White Paper on the Transformation of the Public Service of 1995 identified a need to “create a genuinely representative public service which reflects the major characteristics of the South African demography, without eroding efficiency and competence.” This was translated by the commitment made by the Government of National Unity to “continually improve the lives of the people of South Africa through a transformed

public service which is representative, coherent, transparent, efficient, effective, accountable and responsive to the needs of all” (WPTPS 1995: 6). The White Paper on the Transformation of the Public Service introduced various employment equity targets with reference to race, gender and disability representativity and they had to be reached by a particular period as part of the transformation of the Public Service.

68. In addition, to the WPTPS, the White Paper on Affirmative Action was introduced in 1998. This document sought to ensure that measures were put in place to achieve the set targets with regards to race, gender and disability. The Department of Public Service and Administration has the mandate to ensure that this process is implemented in the public service. To date, progress has been very good at reaching racial representativity, and unsatisfactory with gender and disability representativity.

69. The Public Service continues to implement its 50/50 gender representation policy of the governing party

70. DPSA continues to support the meeting of equity targets by implementing the Gender Equality Strategic Framework.

71. **Strategic Objective 1:** Adopt a wide set of options for capacity development in order to achieve women’s empowerment and gender equality for the creation of a non-sexist state.

72. Sub-objectives in this area require departments to develop knowledge of legal mandates regarding women’s empowerment and gender equality, including the creation of a leadership pipeline through which women can be capacitated & developed for upward mobility, including through the establishment of programmes for leadership development such as bursaries, mentorships, internships and Advanced Development Programmes.

73. **Strategic Objective 2:** Adopt a wide set of options for organizational support in order to promote women’s empowerment and gender equality.

74. Sub-objectives in this area require departments to mainstream gender in their strategic and annual performance plans; including the creation of work-life balance, prevention of sexual harassment and establishment of child care facilities.

75. **Strategic Objective 3:** Adopt a wide set of options for governance and institutional development in order to promote women’s empowerment and gender equality.

76. The strategic objectives in this area require departments to develop affirmative action measures, inclusion of gender indicators in M&E processes, establish gender units and locate and staff them appropriately, and most importantly, institutionalise the HOD/DG 8-Principle Action Plan for the empowerment of women and gender equality in the Public Service, which places the responsibility of gender mainstreaming with the Head of Department.

77. **Strategic Objective 4:** Adopt a wide set of options for economic growth and development in order to promote women’s empowerment and gender equality.

78. The strategic objectives in this area require departments to ensure that economic development and poverty alleviation initiatives include women in different categories; youth, rural and urban women, older women and women with disabilities. Departments are also expected to form partnerships with Civil Society organisations and business in their relevant sectors for the benefit of women.

79. Departments report on the implementation of the frameworks annually on 30 April.

80. The DPSA also introduced the HOD 8-Principle Plan of Action for Promoting Women's Empowerment and Gender Equality within the Public Service Workplace to place the agenda of gender mainstreaming, gender equality and empowerment of women in the office of the Accounting Officer. The principles are:

- Principle 1: Transformation for Non-Sexism-Report progress on efforts made to promote & protect human dignity & human rights of women, including women with disabilities;
- Principle 2: Establishing a Policy Environment-Report on progress made in the full implementation of national policies & implementation guidelines on women's empowerment & gender equality through the development of departmental & sector-specific guidelines & standard operating procedures;
- Principle 3: Meeting Equity Targets-Departments are expected to report on the percentage of employment equity target achieved to date on women at SMS and show levels, & measures to ensure women's full participation in decision-making. Indicate the number of women with disabilities at SMS (from the total of women at SMS);
- Principle 4: Creating and Enabling Environment- Report on progress made in establishing departmental & sector-specific gender management systems, adequate institutional mechanisms and dedicated gender units. Explain how these mechanisms/systems have advanced gender transformation in your department;
- Principle 5: Gender Mainstreaming- Report on progress made by your department to incorporate a gender perspective/mainstream gender into all the planning tools, policies, different programmes, projects & monitoring tools;
- Principle 6: Empowerment-Report on capacity development initiatives or interventions undertaken for women's advancement and gender equality in your department. (Ensure that the information you provide is disaggregated);
- Principle 7: Providing Adequate Resources-Report on the human, physical and financial resources available in the department for advancing gender equality. Are the resources sufficient, are the resources mainstreamed through all programmes or centralized?
- Principle 8: Accountability, Monitoring & Evaluation- Report on interventions implemented to ensure, ownership for, full responsibility & accountability and reporting on advancing gender equality in your department. Indicate who is responsible for what & how does the HOD & Senior Managers in the department support & drive interventions to advance gender equality in your department.

81. The implementation of the 8 Principle Action Plan is through the Public Service Women Management Week Meeting that is held annually on the last week of August.

82. Every Department has to arrange a meeting for women Senior Managers during the last week of August to discuss the Principles.

83. There are eight standard compliance criteria for the PSWMW are:

- (a) A formal meeting must be held and not just a (gender related) event;
- (b) The meeting must be hosted during the prescribed dates (i.e. during the last week of August);
- (c) The DG/HOD must chair the meeting;
- (d) The meeting must only be attended by female SMS managers;
- (e) The agenda should focus on the implementation of the 8-Principle Action Plan;

(f) A report on the implementation on the PSWMW should be submitted to DPSA using the prescribed template;

(g) The implementation report should be submitted to DPSA on or before the 31st of October; and

(h) The implementation report must be signed by the DG/HOD.

84. The DPSA developed a Policy and Procedure on the Management of Sexual Harassment in the Public Service (PPMSHPS) in 2013. The purpose of this policy is to promote a workplace that is free of sexual harassment, sexual favours, intimidation and victimization, where the employer and employees respect one another's integrity, dignity, privacy and the right to equality in the workplace. It also provides a systematic and consistent approach to managing sexual harassment and steps to be taken when sexual harassment occurs within the course and scope of the Public Service. The PPMSHPS is accompanied by a monitoring template which requires departments to report annually to the DPSA on the 30th of April. The revised Performance Management System of the Heads of Departments came into effect on 1 April 2018 and includes indicators for the key performance indicator: "Develop and implement an efficient and effective diversity management and transformation system". HODs whose departments do not achieve 50 per cent representation of women at SMS must develop and continuously implement remedial plans until the employment equity targets are met.

Representation of women in Senior Management in the Public Service

85. In 1994 women in SMS were represented at a mere 5 per cent compared to their male counterparts that occupied 95 per cent of all SMS positions. The Public Service on 31 March 2021 had 9 385 SMS positions filled at SMS and out of those 4 108 (43.77 per cent) were filled by women and 5 277 (56.22 per cent) by men.

Stereotypes and harmful practices

Please provide information about any measures taken to develop and implement a comprehensive strategy to eliminate harmful practices, including the abduction of women and girls for the purpose of forced marriage (*Ukuthwala*), the killing of so-called "witches", female genital mutilation, child and forced marriages, polygamy and so called "virginity testing".

Response

86. Section 28 of the Customary Initiation Bill, 2018 addresses issues of female genital mutilation and virginity testing. It states that, no person under the age of 16 may attend an initiation school for the purposes of being initiated. (3) (a) A child between the ages of 16 and 18 may not attend an initiation school for the purposes of being initiated, unless such child and his or her parents or customary or legal guardian, as the case may be, give written consent for him or her to undergo initiation. (b) A person who is 18 or older may not attend an initiation school for the purposes of being initiated, unless such person gives written consent to undergo initiation.

87. (4) In terms of section 12(3) of the Children's Act, genital mutilation or circumcision of female children is prohibited and therefore the consent contemplated in this section may not include consent to such mutilation or circumcision and may not form part of any initiation practice.

88. (5) (a) In terms of section 12(4) of the Children's Act, virginity testing of children under the age of 16 is prohibited and therefore the consent contemplated in this section may not include consent to such virginity testing in the case of children under the age of 16. (b) Virginity testing of children who are between the ages of 16 and 18 is subject to the provisions of section 12(5), (6) and (7) of the Children's Act and regulations 3 and 4 of the General Regulations Regarding Children, and may only form part of an initiation process if the provisions of that section and regulations have been complied with. (c) Virginity testing of any person who is 18 or older may only be performed as part of an initiation process if such person has given written consent for such virginity testing. (d) No child or any other person may be forced to undergo virginity testing as part of an initiation process.

89. Government of South Africa is in the process of developing a Marriage Policy (2021) which abolishes child marriages by prescribing the marriageable age to be 18 years for both girls and boys under the Recognition of Customary Marriages Act. This policy is set to outlaw all customary marriages of children under the age of 18 years.

Please outline measures taken to align customary laws and practices, and to revise and amend policies and legislation such as the Children's Act (2005), to prohibit harmful practices, in line with the Convention and Article 5 and 17 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), 2003. Please provide statistics on the prevalence of the harmful practices against women and girls listed above, disaggregated by age, ethnicity, race, socio-economic status, nationality, disability, albinism and other status.

Response

90. Government of South Africa is in the process of developing a Marriage Policy (2021) which abolishes child marriages by prescribing the marriageable age to be 18 years for both girls and boys under the Recognition of Customary Marriages Act. This policy is set to outlaw all customary marriages of children under the age of 18 years.

In paragraph 42, brief reference is made by the State party on the measures taken to increase public awareness about women's rights using media and other communication platforms. Please describe any measures to eliminate the patriarchal and stereotypical portrayals of women in the media and in advertisement, including type of media, coverage, contents, target groups and outcomes of impact assessments carried out in this regard. Please also specify any steps taken to implement the Committee's previous recommendation ([CEDAW/C/ZAF/CO/4](#), para. 23), to design and implement effective education campaigns to combat community and family pressures on girls and women to undergo so called "virginity testing".

Response

Gender-based violence against women

Please indicate the measures taken to ensure adequate human, technical and financial resources to all relevant government entities for the implementation of the Gender-Based Violence and Femicide National Strategic Plan (2020-2030), and concretize any measures to implement a sustainable and coordinated multi-disciplinary and inter-sectorial approach to end gender-based violence. Please specify measures taken to ensure its effective implementation through enhanced intergovernmental coordination and results-based monitoring and evaluation. Please provide information on the implementation of research-driven or evidence-based preventative measures or programmes related to sexual and gender-based violence.

Response

Statutory Framework: National Council on Gender-Based Violence and Femicide (NCGBVF)

91. A draft Bill has been developed and is being fast-tracked for promulgation.
92. The Bill provides for a multi-sectoral and inter-sectoral approach towards the implementation of the National Strategic Plan on GBVF (NSP on GBVF) at national, provincial and local levels, at community and other forums.
93. Parliament has adopted three GBVF Bills to strengthen accountability for delivery. The Bills are the Criminal Law (Sexual Offences and Related Matters) Amendment Act, the Criminal and Related Matters Amendment Bill, and the Criminal and Related Matters Amendment Bill.

Private Sector GBVF Response Fund 1

94. In February 2021 the private sector GBVF Response Fund 1 was launched where an initial amount of R128 million was raised. The fund follows the principles enshrined in the NSP on GBVF of harnessing the roles, responsibilities and resources of all stakeholders.
95. The private sector GBVF response fund 1 seeks to send a strong message across South Africa and globally that the private sector is committed to making firm financial commitments towards the implementation of the NSP on GBVF, and the wider response to GBVF in the country.
96. The fight against COVID-19 has led to limited availability of funds for major priorities of the NSP on GBVF. This private sector fund closes the gap by providing funding for priority areas as well as lessons that will be applied when the overall GBVF fund is established.
97. Once established the NCGBVF which is set to be an Independent Statutory Council will establish the multisectoral GBVF Fund.

GBVF as a national priority – Oversight and Accountability

98. President has been at the forefront, leading the national response to GBVF. In this context, GBVF has been recognized and prioritized as a twin pandemic to COVID-19.

99. This has served to inspire different segments of society to make GBVF their business and instil a sense of urgency for a whole of government approach.

100. The Inter-Ministerial Committee (IMC) was set up in June 2020. During the 1st year of the rollout of the NSP on GBVF, the IMC served to ensure integration of the NSP on GBVF into government planning processes; resourcing, and that it yields concrete and tangible results.

Multisectoral Collaborative Platform

101. In the absence of the NCGBVF, the establishment of a voluntary multisectoral implementation collaborative has ensured the participation of all stakeholders' in particular civil society.

102. This dynamic collaborative driven by government with the support of United Nations Women has grown from 36 to 82 civil society organisations and approximately 400 individuals spanning government, civil society, labour

103. The platform implements high level rapid interventions to support the broader outcomes of the NSP on GBVF and the continued growth is an indication of progress in bolstering multisectoral collaboration. Development partners serve to provide technical support.

104. This platform is also supported by the establishment of the Faith Action to end GBVF. Since establishment in 2020, the Faith Action to end GBVF grew from 44 organizations to 182 organizations. The main focus is on turning the tide through prevention and rebuilding social cohesion.

GBVF Human Resources and Technical Support

105. The process of localising the NSP on GBVF is in progress. Provinces are showing urgency in establishing or revitalising multisectoral provincial, district and local coordinating structures; developing implementation plans and coordinating implementation and reporting.

106. 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 multisectoral rapid response structures at local levels.

107. 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 secretariat in the absence of the NCGBVF and to drive engagements of all stakeholders with a particular focus on civil society engagement.

Monitoring and Evaluation

108. 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.

109. The Framework outlines the theory of change, technical indicator definitions, data flow processes, roles and responsibilities, and the requisite capacity to implement.

110. 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.

111. All these processes are strongly supported by technical expertise from development partners.

112. 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.

113. COVID-19 has reduced reach as a lot of engagements have been virtual. The government is using the radio and social media as communication channels to reach the wider community and broaden reach in rural communities.

114. President commissioned an Interim Steering Committee on Gender Based Violence and Femicide to prepare an Emergency Response Action Plan to be implemented over six months between 1 October 2019 and 31 March 2020. He convened a Joint Sitting of Parliament to discuss the state of violence against women and girls and to unite the country behind the national plan. The President also announced a special budgetary allocation of R1.6 billion rand to this 6-month emergency plan. It was a rapid-response multisectoral, inter-departmental, government and civil society programme to address cases as a means of catalysing and galvanising action on the ground, and to identify and close gaps in service provision to victims of such violence.

115. The emergency plan addressed five key interventions: (i) Access to justice for victims and survivors; (ii) change norms and behaviour through high-level prevention efforts; (iii) urgently respond to victims and survivors of gender based violence; (iv) strengthen accountability and architecture to respond to the scourge of this violence adequately; and (v) prioritize interventions that facilitate economic opportunities for addressing women's economic vulnerability.

116. The South African government approved the Gender-based Violence and Femicide National Strategic Plan in March 2020. The National Strategic Plan aims to provide a multi-sectoral, coherent strategic policy and programming framework to strengthen a coordinated national response to the crisis of gender-based violence and femicide by the government of South Africa and the country as a whole. The strategy seeks to address the needs and challenges faced by all – especially across age, sexual orientation, sexual and gender identities; and specific groups such as elderly women, women who live with disabilities, migrant women and trans-gender women – who are affected and impacted by the gender-based violence scourge in South Africa.

117. The President has called for weekly reports to be submitted to him on the progress being made in implementing the national strategic plan and this has been ongoing since the start of the COVID-19 lockdown in the country. Furthermore, as part of its oversight mandate, National Parliament has developed a GBVF Oversight Framework for the 6th Parliament of South Africa, which was released in October 2020. The intention is that the National Parliament will hold the various government departments, provincial and local government structures to account in terms of their responsibilities in fighting the scourge of gender-based violence and femicide in the country in line with the National Strategic Plan.

118. The Government of South Africa is also strengthening and tightening the rule of law as a deterrent to address and eliminate the scourge of gender-based violence

and femicide in the country. Thus three existing laws have been amended earlier this year and are currently in National Parliament undergoing the processes for finalising the bills to enact them into laws. These are: (i) the Domestic Violence Amendment Bill [B20-2020]; (ii) Criminal and Related Matters Amendment Bill [B17-2020]; and (iii) Criminal Law (Sexual Offences) Bill [B16-2020]. The country is also exploring the issue of on-line protection orders to victims especially in the times of the COVID-19 pandemic and the scourge of domestic violence in confined spaces.

119. Furthermore one of the Summit Declaration is the establishment of a National Council on Gender Based Violence. This process is currently underway to nominate members of the Council. The Government of South Africa has also started with the recruitment process for the secretariat of the Council in 2021.

120. On 18 September 2019, the President expressed the country's commitment to address the scourge of Gender-Based Violence and Femicide (GBVF) 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.

121. One of the measures identified was the need for tightening of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) ("the principal Act"), being one of several legislative measures identified to strengthen South Africa's response to GBVF, in particular the legislation regulating the National Register for Sex Offenders (NRSO).

122. Pillar 3 of the National Strategic Plan (NSP) on GBVF also required the Department of Justice to develop an amendment Bill to strengthen the implementation of the NRSO. In Nov 2020 the Minister of Justice and Correctional Services introduced into Parliament the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill which proposed the amendments which originated from the 24 demands made by the #TheTotalShutDown Movement.:

123. Among other things, the Bill aims to:

(a) Expand the scope of the NRSO to include the particulars of all sex offenders and not only sex offenders against children and persons who are mentally disabled;

(b) To expand the list of persons who are to be protected to include other vulnerable persons, namely, certain young women, persons with physical, mental, sensory or intellectual disabilities and persons over 60 years of age who, for example, receive community-based care and support services, and

(c) Increase the periods for which a sex offender's particulars must remain on the NRSO before they can be removed from the register. The Bill further proposes to expand the ambit of the crime of incest, and introduces a new offence of sexual intimidation.

124. This Bill was passed by the National Assembly on 03 June 2021 and was sent to the National Council of Provinces (NCOP) for concurrence. On 01 September 2021, the NCOP passed amongst others the abovementioned Bill in its virtual sitting. It is anticipated that this Bill will change the landscape in terms of how government departments, law enforcement and the courts deal with cases relating to violent crimes in South Africa – especially sexual violence perpetuated against women and the vulnerable.

National Integrated Prevention Strategy against Femicide

125. The Department is in the process of finalizing a National Integrated Prevention Strategy against Femicide. The technical expertise to develop the strategy has been provided by the South African Medical Research Council and funded by the DoJ&CD. The Strategy was adopted by the Domestic Violence and Femicide Intersectoral Committee on 8 September 2021 and also adopted by the Pillar 3 Committee of the NSP on GBVF. The Strategy will be presented to the Pillar Plenary of the NSP GBVF on 30 September 2021. Following various other processes, it is anticipated that the Strategy will be presented to Cabinet by the end of the 2021/2022 financial year. It is intended that the National Integrated Prevention Strategy against Femicide will be an addendum to the National Strategic Plan on GBVF.

126. This is intended to alleviate the capacity pressure currently experienced by the office. Duties may cover individual enquiries and private institutions requirements for clearance certificates for their employees and their contractors, capturing of application forms, processing applications, responding to enquiries within their Regions and also updating applicants on the status of the applications.

127. The South African Police Service (SAPS) are part of the planning, implementation and monitoring structures of the Steering Committee tasked with overseeing the implementation of the Gender Based Violence and Femicide National Strategic Plan. The Committee is coordinated by the Presidency with the assistance of the Department of Women, Youth and People with Disabilities (DWYPD). The SAPS provide monthly reports to the DWYPD with regard to progress in implementing the aforesaid strategic plan.

128. The SAPS developed and approved the implementation of the South African Police Service Integrated Action Plan for Sexual offences and Gender Based Violence, on 15 March 2021 that supports the implementation of the National Strategic Plan on Gender Based Violence and Femicide. The plan draws on various fields of practice within the SAPS that impact on the provision of human, technical, financial resources and activities utilised in addressing gender-based violence from a policing perspective. A high level multi-disciplinary Steering Committee on Gender Based Violence was established on 1 September 2020 and oversees the implementation of the Action Plan. Progress is reviewed at meetings conducted on a two-monthly basis.

129. The Steering Committee is composed of Divisional Commissioners who are Heads of Divisions responsible for specialities including front line services at police stations, detective services, forensic services, human resource development, policy development, legislative advice, quality assurance inspections, management information systems, personnel management and discipline. Provincial Commissioners, who are Heads of SAPS at provincial level, are also part of this structure or have delegated a senior representative to sit in this structure. The Steering Committee is supported by the Inter-Divisional Forum on Crimes against Women, Children and Vulnerable Groups composed of technical experts within various fields of practice, who ensure implementation of the indicators and targets contained in the Action Plan. Progress is reviewed at meetings conducted on a monthly basis.

130. All provinces have Provincial SAPS Steering Committees on Gender Based Violence structured in the multi-disciplinary mode that oversee implementation of the Action Plan. These structures are mandated to identify, manage and address any impediments in the implementation of the plan.

131. The Gender Based Violence and Sexual Offences Resource Plan was submitted to the SAPS Resource Committee, on 30 April 2021, for allocation of resources such as finance, human and physical resources. There are Gender Based Violence

Coordinators/Domestic Violence/Victim Empowerment Coordinators at every police station. Every police station is equipped with the functional Victim Friendly Room or an alternative room to serve as Victim Friendly Room. The SAPS is in a process of implementing the Gender Based Violence Desks at police stations to adequately deal with Gender Based Violence related incidences. There is a national SAPS Gender Based Violence Steering Committee and nine provincial Gender Based Violence Steering Committees to ensure a coordinated effort to deal with Gender Based Violence.

132. The SAPS provides the following learning programmes to SAPS members in terms of the Domestic Violence Act and the Sexual Offences Act (SOA):

- First Responder to Sexual Offences:
 - Purpose: To equip first responders to sexual offences with the knowledge, skills and attributes to gather evidence and information in a manner that contributes to the investigation of sexual offences complaints;
- Family Violence, Child Protection and Sexual Offences (FCS):
 - Purpose: To equip FCS members with the skills and tools to conduct investigations on FCS related cases in a professional and efficient manner in line with international obligations, relevant legislation as well as organisational prescripts;
- Domestic Violence:
 - Purpose: To equip SAPS members with the knowledge, skills and attributes to work effectively in a policing environment when attending to Domestic Violence incidents;
- Victim Empowerment:
 - Purpose: To equip SAPS members with the knowledge, skills and attributes to support victims of crime when attending to complaints in line with organisational prescripts;
- Basic Police Development Learning Programme:
 - Purpose: To equip new SAPS recruits with the knowledge, skills and attributes to work effectively in a policing environment when attending to Domestic Violence incidents;
- Vulnerable Groups:
 - Purpose: To equip the members with the knowledge, skills and attributes when dealing with vulnerable groups to work effectively in a policing environment;
- Children and Youth at Risk:
 - Purpose: To equip members with the knowledge, skills and attributes to work effectively with children and young people at risk of being involved in criminal activities, and accused of crimes.

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.

<i>Course Description</i>	<i>Trained Members</i>	<i>Competent Members</i>
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	64 896

133. 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 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.

Please provide statistical data on the scope and extent of all forms of gender-based violence against women, disaggregated by age, ethnicity, race, nationality, disability, socio-economic status, albinism and other status, and on the impact of measures taken to prevent such violence, investigate occurrences, prosecute and punish perpetrators, and provide services such as shelters, as well as protection, relief and remedies, including appropriate compensation, to victims and their families.

Response

134. The SAPS do not have a DSSC code for gender-based violence against women. The SAPS Crime Registrar is, therefore, not in a position to verify the authenticity of crimes that do not have a DSSC code and would thus rely on the correct recording of information during the docket registration stage and on whether other descriptive variables are captured e.g. variables such as economic status, disability, sexual orientation etc. If these variables are not captured during docket registration there is no analysis that can be used by the SAPS Crime Registrar to derive this information.

135. The SAPS actively participate in the Femicide Watch Programme which is led by the Department of Justice and Constitutional Development (DoJ&CD) and contributed to the development of the Femicide Watch Integrated Justice System (IJS) Transversal Project and will continue to play a role in the implementation of this system.

Please provide detailed information about the status of implementing a Femicide Watch.**Response**

136. South Africa initiated the establishment of a Femicide Watch for the country in 2018 and became first country on the African continent to establish a femicide watch.

137. Despite the increasing numbers of reported femicide cases, the country does not have a repository of these cases mainly due to the absence of a legal framework that creates a specific crime of 'Femicide'. Currently, any unlawful killing of a human being, irrespective of gender, sex, and age, is classified as a crime of murder. This has inevitably resulted in desegregated data, which leaves the country without any reliable figure of femicide cases.

138. After her visit in December 2015, the United Nations Special Rapporteur on Violence against Women, its Causes and Consequences, recommended in her report that South Africa should establish the Femicide Watch to address the current gaps in data management. On 25 November 2015, in her report to the General Assembly (A/71/398), she considered the data collection and analysis on femicide as a global challenge, and requested all state parties to establish a Femicide Watch.

139. In 2018, the Department of Justice and Constitutional Development (DoJ&CD) heeded to the United Nations (UN) call and commenced with the establishment of a femicide watch initiative in South Africa, the very first Femicide Watch in the African continent. The Femicide Watch Project is part of the broader Anti-Femicide Movement, which the DoJ&CD started in 2016 to address the incidence of femicide in the country and to respond to the recommendations of the UN Special Rapporteur, among other things. The Anti-Femicide Movement is a joint intervention, mainly with male civil society organisations and other relevant stakeholders to root out the identified causes of this scourge, respond, and prevent.

140. The Anti-Femicide Movement seeks to provide multiple platforms for information dissemination, i.e. the four pillars of the project which include input to the DoJ&CD annual report, a Femicide Watch dashboard for inter-departmental monitoring, a website for public users, and ad-hoc reports for in-depth analysis. The Femicide Watch dashboard has been developed as a management tool to facilitate the tracking of femicide cases in the country.

141. The deliverables as set out in the 2020/2021 APP have been achieved and the Femicide Watch dashboard has been adopted as a management tool for the relevant government stakeholders. The Femicide Watch initiative highlights the importance of collecting information that could be compared globally. South Africa has a high rate of femicide in comparison to other countries that have an operational Femicide Watch. It is of utmost importance to implement a monitoring mechanism in order to craft corrective measures to curb femicide cases. In light of the Femicide Watch dashboard's correct functioning, the fact that the dashboard is accessible to stakeholders and it has been accepted by the relevant stakeholders, Phase 3 of the Femicide Watch dashboard was successfully implemented for the 2020/2021 financial year.

142. South Africa, as a progressive country, will be amongst the few countries in the world that have an established Femicide Watch, as prescribed and defined by UN, and the very first country in Africa to venture into this innovation. Political support is therefore fundamental and imperative to bring this project to success.

143. The main aim of the Femicide Watch was to ensure that statistics and data were kept in a repository to help with prevention and monitoring of femicide cases in the

Country. The Femicide Watch dashboard has been developed in conjunction with the Integrated Justice System (IJS), as a management tool and can assist in the following:

- (a) Capture and tracking every femicide case;
- (b) Carefully analyse data to determine trends and profiles of offenders and victims;
- (c) Develop responsive and impactful policies, laws, programmes and initiatives;
- (d) Channel resources for intervention to areas of need;
- (e) Periodically publish femicide statistics (as managed by the dashboard) to raise awareness and keep the country's memory alive to the realities of the tragedies, as a prevention measure, etc.

144. Identified and authenticated stakeholders will be able to identify high-offending areas to take corrective measures and channel resources where they are most needed. The information is sourced from the Integrated Justice System (IJS). Data is submitted by the South African Police Service (SAPS) and the Department of Justice and Constitutional Development (DoJ&CD).

145. The Femicide Watch dashboard provides the following functions:

- An overview of the current status of femicide in South Africa, based on aggregated totals;
- Filtering capabilities;
- A mechanism for reporting on perpetrator information like age and gender;
- A mechanism for reporting on victim information like age;
- A mechanism for reporting on the various methods used in the killing of females;
- A mechanism for reporting on the various instruments used in the killing of females;
- A mechanism for reporting on government-employed perpetrators;
- A mechanism for reporting on unemployed perpetrators;
- A mechanism for reporting on perpetrator disabilities;
- A mechanism for reporting on perpetrator racial groups;
- A mechanism for reporting on perpetrator marital statuses;
- A mechanism for reporting on incident reporting;
- A mechanism for reporting on victim disabilities;
- A mechanism for reporting on victim racial groups;
- A mechanism for reporting on victim marital statuses;
- Analysis and comparisons can be completed on reported crime (SAPS) and court information (DoJ&CD);
- Departmental key performance indicators can be managed more closely;
- Corrective measures can be implemented quickly, based on available information;
- All information can be viewed and analysed in one central location;
- Information is already consolidated and grouped;
- Graphs and figures display information at a glance and are easily understood

146. All identified deliverables were submitted and completed for the 2020/2021 financial year.

147. In light of the Femicide Watch dashboard's correct functioning, the fact that the dashboard is accessible to stakeholders and it was accepted by the relevant stakeholders. Phase 3 of the Femicide Watch dashboard was successfully implemented for the 2020/2021 financial year.

148. The work on phase 4 during the 2021/2022 financial year has commenced and aims to populate the Femicide Watch dashboard with available live data to be utilised by internal stakeholders.

Please also concretize steps taken to make accessible victim-centred quality services across the criminal justice system, educational system and social support system, and to strengthen the effectiveness, efficiency and coordination related to the issuance of protection orders.

Response

149. By the end of 2019/20, the Draft Criminal Law (Sexual Offences and Related Matters) Amendment Bill of 2020 was published for public comments. To support survivors of gender-based violence, the sexual offences courts regulations 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) to ensure the equitable distribution of victim-support services. The Regulations set out a standardised catalogue of support services for survivors of sex crimes to create a court experience defined by care, respect and dignity. The ultimate goal to clear the court system of secondary victimisation, as required by the Gender-based Violence and Femicide National Strategic Plan (GBVF NSP) for the Presidential Summit Declaration against GBVF of 2019. A total of 13 sexual offences courts SOCs were established in in 2019/20 financial year with aim to curb the increasing levels of sexual violence in the country. This bring a number of sexual offences courts established to 108. These courts were featured on BBC world news in December 2019 as an international best practice model.

150. With reference to addressing the scourge of violence against women and children, special emphasis was placed on the prosecution of sexual offences matters. The improved conviction rate in sexual offences during the 2019/20 financial year of 75.2 per cent which is an all-time high, reflecting a firm commitment to deliver justice for the most vulnerable members of society – the victims of sexual offences and gender-based violence.

151. The National Prosecuting Authority enhance the role of victims in the criminal justice process where measurable improvements in service delivery to victims of crime was a focal point in the 2019/20 financial year. The rights and needs of the victims of crime, in particular vulnerable persons, were advanced through initiatives such as the Thuthuzela Care Centres (TCCs) and court preparation services. The success of the TCCs is founded in the services delivered to victims of sexual offences and related crimes. During the year 2019/20 financial year, 35 469 victims were assisted at the TCCs, of which 31 807 (89.7 per cent) were victims of sexual offences, and 97 671 witnesses were assisted by the Court Preparation Officers (CPOs). The CPOs do not only attend to the needs of victims of crime, but also ensure that victims are given a larger role in the process of achieving justice. The focused strategies of prioritisation of recoveries ensured that vast payments were made to victims of crime

Reportedly, some women, such as lesbian, bisexual, transgender women, women refugees, women living with disabilities, and women and girls with albinism are more exposed to gender-based violence than other women. Please provide disaggregated statistical data on the interaction of sex and other grounds, such as gender, race, ethnicity, age, disability, sexual orientation, socio-economic status, albinism and other status in relation to being at risk of violence, including sexual violence. Please indicate legislation, policies and programmes that address and protect the rights and needs of women and girls at risk of/or affected by intersecting forms of discrimination and violence.

Response

152. In 2019, Cabinet of the Republic of South Africa adopted the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP). The Plan commits all sectors of our society to the promotion and protection of human rights, and to raising awareness of anti-racism, equality and anti-discrimination issues. It calls for a partnership between government departments and Chapter Nine institutions in implementing anti-racist and anti-discrimination education.

153. The NAP prioritises groups of individuals who, besides being victims of racial discrimination, face multiple forms of discrimination, such as: Rural and urban poor; Farm workers and farm dwellers; Persons in extreme poverty; Women and girls; Children and youth; Stateless persons; Domestic workers; People living with HIV/AIDS; Persons with disabilities; Older persons; Persons deprived of their liberty; Lesbian, gay, bisexual, transgender and intersex persons, and Persons affected by armed conflict or natural disasters.

154. South Africa has a Task Team to deal with violence against LGBTI persons. It works closely with civil society when it comes to the protection of the rights of LGBTI persons. The work of National Task Team on LGBTI Rights was hailed as an international best practice model by the United Nations. During the 2019/20 financial year, the department of Justice was considering engaging with the civil society partners to discuss the possibility of widening the mandate of the NTT to address problems with LGBTI people realising their rights more broadly.

155. The SAPS systems currently do not have disaggregated data with regard to lesbian, bisexual, transgender women, women refugees, women living with disabilities and women and girls with albinism.

156. SAPS policies that protect the rights of women at risk (women with disabilities including the albinism condition, persons affected by sexual orientation or gender identity matters) include the following:

- Standard Operating Procedures to Respect, Protect, Promote the Rights of Lesbian, Gay, Bisexual, Transgender, Intersex Plus Persons (2019);
- Guidelines for the Provision of Policing Services to People with Disabilities (2020);
- Guidelines for Older Persons (2018);
- Standard Operating Procedures for the Policing of Prostitution (2019);
- Standard Operating Procedures Trafficking in Persons: Victim Identification, Victim Assistance and Referrals (2018).

Programmes addressing the protection of women at risk have included:

- Public education and awareness community engagements where information materials correcting harmful myths and sensitising the public to be wary of motivations for organ trafficking and mutilation for occult-related practices with regard to people with the albinism condition, including women;
- Promotional materials (e.g. posters provided at police stations) aimed at encouraging the protection of people with the albinism condition, including women;
- Promotional materials encouraging the protection and equal treatment of the elderly from elder abuse;
- In process of finalising Memorandum of Understanding with DeafSA for availability of sign language interpretation. In the meantime, have an interim arrangement to access sign language⁴ interpretation services at no cost.

157. The following public information materials are available in braille and were disseminated to institutions for the blind:

- Victim empowerment;
- Domestic violence;
- Sexual offence;
- Children rights;
- Rights of older persons;
- Child Justice.

Trafficking and exploitation of prostitution

According to paragraph 92 and 93, the Prevention and Combatting Trafficking in Persons Act (Act No. 7) was promulgated in 2013, and the government is putting in place all measures to implement this legislation. Please explain how the Act was implemented, including concrete examples, and the impact of such measures. Please provide any information on and capacity building provided to the judiciary, law enforcement officials, border guards and social workers on the application of the Act, gender-sensitive treatment of victims, as well as identification, protection and law enforcement strategies. Please specify any services available for victims of human trafficking, for example shelters, early identification and referral to the appropriate services. Please also provide data on trafficking and exploitation of women in prostitution, disaggregated by age, gender, race, nationality, ethnicity, disability and socio-economic status. Please also provide information on support services, rehabilitation-, exit- and reinsertion programmes available to women in prostitution in the State party.

Response

158. South Africa launched the National Policy Framework on the Management of Trafficking in Persons Offences (the NPF) in 2019. The framework was jointly

developed with key stakeholders in the criminal justice system, relevant stakeholders, international partners and civil society role-players. This Framework seeks to ensure coordinated planning, resource allocation and the execution of services within the trafficking in persons sector. It entrenches a victim-centred approach and promotes better service delivery to respond to the needs of the victims.

159. This Policy Framework, therefore, encourages the multi-disciplinary approach to planning, resourcing and service delivery. It sets out distinct strategic objectives that are operationalized through a 3 year Inter-departmental Implementation Plan. It establishes the National Inter-sectoral Committee on Trafficking in Persons (NICTIP) in addition to provincial inter-sectoral committees as well as rapid response teams. The Policy Framework serve as a monitoring tool that the NICTIP will use in the exercise of its monitoring function across all the implementing government departments and institutions.

160. The SAPS Family Violence, Child Protection and Sexual Offences (FCS) units are mandated to investigate crimes against women and children which are divided into four (4) main groups namely:

- Sexual Offences;
- Person directed crimes;
- Illegal removal of a person (under 18 years); and
- Electronic media facilitated crime.

161. The FCS Investigation Service comprises of the following Sections:

- FCS Investigations: Responsible for investigation of all FCS related crimes;
- Serial and Electronic Crime Investigations (SECI): Responsible for investigation of serial rapists and child pornography;
- Forensic Social Work Service (FSW): Responsible for the assessment of child victims in sexual abuse cases, taking of statements of children, preparation of forensic reports for court and expert testimony in court.

Summary of Annual Convictions by the FCS (2019/2020):

<i>SUMMARY: ANNUAL CONVICTIONS 2019/2020</i>												
<i>Period</i>	<i>1 Year to 9 Years</i>			<i>10 Years up to 19 Years</i>			<i>20 Years and Above</i>			<i>Life Sentence</i>		
	<i>Number of sentences</i>	<i>Number of cases</i>	<i>Number of accused</i>	<i>Number of Sentence</i>	<i>Number of cases</i>	<i>Number of accused</i>	<i>Number of Sentence</i>	<i>Number of cases</i>	<i>Number of accused</i>	<i>Life Sentence</i>	<i>Number of cases</i>	<i>Number of accused</i>
Eastern Cape	321	53	49	620	46	42	658	24	25	32	30	31
Free State	443	94	93	868	69	61	186	10	10	20	19	20
Gauteng	631	94	91	970	87	59	458	15	16	63	57	42
Kwa Zulu Natal	322	78	90	635	42	43	854	32	32	54	50	47
Limpopo	214	47	46	1153	85	57	605	16	20	43	38	36
Mpumalanga	224	50	52	552	40	37	515	19	20	46	39	29
North West	176	31	31	510	37	37	323	13	13	31	29	20
Northern Cape	457	107	99	1242	52	45	613	20	21	12	12	9
Western Cape	929	257	240	1616	123	106	796	30	32	55	38	32
Total	3717	811	791	8166	581	487	5008	179	189	356	312	266

162. The SAPS/DPCI continues to conduct capacity building sessions to share information amongst the members of the SAPS on the application of the Prevention and Combatting Trafficking in Persons Act, 2013 (Act No. 7 of 2013).

163. The National Commissioner of the SAPS issued the National Instruction 4 of 2015 to further assist the Department on the implementation of the Act.

164. The SAPS National Instruction 4 of 2015 has Annexures, such as Annexure C, which is used to screen the victims of trafficking in persons. The same National Instruction is accompanied by SAPS 611 and SAPS 611(a) forms to facilitate the placement of victims of trafficking in shelters and protective custody respectively.

165. The SAPS also have Standard Operating Procedures on the Victim Identification, Victim Assistance and Referral system. SAPS members participate in the integrated trafficking in persons workshops organised by the International Organisation on Migration (IOM) and UNODC.

Nationality

Please specify measures taken to ensure that women in rural areas have access to birth registration. Please indicate any measures taken to revise the Births, Deaths and Registration Act (1992), to ensure that children of undocumented mothers do not become stateless.

Response

166. The Department of Home Affairs have partnered with the Department of Health on a birth registration project to ensure the registration of all births that take place in the health facilities. The project enable birth registrations at all 1 445 health facilities with maternity wards is being rolled out.

167. The department has continued to deliver services, with a footprint that includes 412 civic services offices, 100 mobile trucks, 72 ports of entry, 5 refugee reception offices, the Lindela repatriation centre and a presence in 32 missions abroad. The department improved access to its services by partnering with banks and health facilities. As of March 2020, 391 health facilities (322 of them public and 69 private) were connected to the NPR and were capacitated to register births and deaths.

168. The DHA registered 845 253 births within 30 calendar days. This means that approximately 77 per cent of the projected 1, 1 million births per annum were registered within 30 days. The early birth registration programme resulted in a 27, 8 per cent decrease in late birth registrations, with the unregistered children above 14 years decreasing by 59,8 per cent. This programme ensures that children get their identity early in life, easing their life journey. The programme was anchored in the strategy to increase the footprint at health facilities. The focus of the birth registration is on making it easier for parents to register the birth of their new-borns within 30 days of birth.⁶

⁶ Department of Home Affairs: Annual report 2019/2020.

Education

According to paragraph 51, the Court ruled that existing policies stating that pregnant girls must be absent from school for a certain time must be reviewed. Please specify the measures taken to review existing policies to ensure pregnant girls can attend school until childbirth and are re-admitted as soon as they are ready to proceed with their schooling, as well as other measures taken to ensure that all girls can attend and continue primary and secondary education.

Response

169. A near-final draft policy for the prevention and management of learner pregnancy in schools is awaiting cabinet promulgation, undergoing the consultative process. The main goals of the policy are to reduce incidences of learner pregnancy through the provision of quality Comprehensive Sexuality Education (CSE), and access to adolescent and youth-friendly Sexual and Reproductive Health (SRH) services, and to promote the constitutional rights of girls to education by ensuring that they are not excluded from school as a result of pregnancy and birth. The policy primarily advocates for delayed sexual debut or otherwise the promotion of safe and correct use of combination prevention of HIV and pregnancy if a child is sexually active. In the event that the child falls pregnant, the policy makes provisions for the support of pregnant girls who have to be out of school due to pregnancy and return to school as soon as it is medically feasible for them to do so.

Please also provide data on the drop-out rates of girls from school, including causes, and disaggregated by race, ethnicity, age, disability, rural and urban, as well as socio-economic background. Please provide information on continuing education programmes for women who were unable to complete their education at secondary and higher education levels.

Response

170. Females are more likely to reach and complete grade 12 than boys (i.e. dropout is worse amongst boys). This is despite the fact that females face certain potential triggers of dropout like pregnancy and family responsibilities that boys do not face. This observation is consistent with the view that the main underlying reason for dropout is weak learning – assessments of learning in the early grades consistently show better average performance amongst girls than boys.

Percentage of 22-25-year-olds who have completed Grade 12 or above, 2010-2019

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Province										
Western Cape	49.6	49.5	48.5	47.0	47.5	51.3	53.2	50.9	53.2	59.8
Eastern Cape	32.7	33.2	25.8	28.2	32.4	32.1	34.2	39.1	37.7	37.5
Northern Cape	37.7	38.5	45.2	46.0	42.7	43.1	38.4	48.2	51.4	51.6
Free State	47.4	49.1	48.9	45.3	46.4	48.8	46.9	48.5	60.3	47.3
KwaZulu-Natal	45.8	51.7	52.3	53.2	54.1	50.7	51.4	50.1	55.1	53.8

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
North West	40.6	35.9	44.2	45.4	45.8	40.7	42.2	44.5	49.3	55.3
Gauteng	58.3	60.6	59.5	61.6	65.0	63.4	62.3	64.0	64.0	65.6
Mpumalanga	43.3	44.0	44.2	41.9	46.5	49.4	46.3	47.6	53.5	53.2
Limpopo	32.7	33.0	38.4	37.9	40.9	37.9	37.7	36.6	42.0	44.8
Gender										
Male	43.3	42.9	44.5	44.9	47.4	46.0	46.3	47.4	51.3	50.3
Female	48.0	51.2	50.3	51.0	54.8	53.7	53.4	54.0	56.3	59.3
Total	45.6	47.1	47.4	47.9	51.1	49.9	49.9	50.7	53.8	54.8

Please provide information about the measures taken to implement and monitor the Guidelines for the Prevention and Management of Sexual Violence and Harassment, and specify the outcomes of any capacity building and trainings conducted for school officials and students on their application.

Response

171. The Department of Basic Education (DBE) has developed the Protocol for Management & Reporting of Sexual Abuse & Harassment in Schools since 2018, as 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. Given the importance of the Protocol, the department continues to mediate capacity buildings and trainings for school officials and learners at different levels of the system. Due to the size of the document aiming at legal, governance and administrative processes of reporting sexual abuse and harassment in schools, the Department found it essential to review the full version of the Protocol to provide a summary of its contents and develop an abridges version, using simpler and clearer language for learners 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.

172. 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. 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.

173. 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. CSE is implemented through the following:

- (a) Educator training & support;
- (b) Aligned Life Orientation Textbooks;
- (c) Availability of other teaching and learning aides (such as Scripted Lessons Plans, videos, posters, etc);
- (d) Integration of pregnancy prevention, gender, alcohol and drug use prevention into CSE;
- (e) Aligned co-curricular activities (such as peer education, sports and culture activities) as well as parent and community involvement;

174. The Department 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) 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.

Please also inform us about any other measures taken to provide safe educational environments free from discrimination and violence, as well as safe transportation to and from schools.

Response

175. The DBE participates in the Violence Prevention Forum that draws all sectors of society for joint efforts in addressing violence prevention and child protection. With Equal Education Law Centre and UNICEF, the DBE has sought to develop an additional Protocol for the Prevention and Management of Discrimination in Schools, which is still undergoing final developments. The DBE further established a Working Group for Social Inclusion in Education with civil society organisations, collaborating on building an education system that provides for discrimination-free and violence-free educational environments.

Please further indicate any measures taken by the State party to introduce education on human rights, including on gender equality, the role of men and boys in preventing sexual and gender-based violence and harmful practices, age-appropriate education on sexuality, responsible sexual behaviour and reproductive health and rights in school curricula and educational materials.

Response

176. The Constitution of the Republic of South Africa (RSA, 1996) requires that education be transformed and democratised in accordance with the values of human dignity, equality, human rights and freedom, non-racism and non-sexism. This is the premise under which the Curriculum is based on.

177. The Department of Basic Education has a dedicated Unit: Social Cohesion and Equity in Education whose mandate is, among others, to implement programmes that are aimed at eliminating racial and other related forms of discrimination in the education system. In effecting this mandate, key constitutional values frame the

programmatic work of this Unit include democracy, social justice, equity, equality, non-racism and non-sexism, Ubuntu (human dignity), an open society, accountability (social responsibility), the rule of law, respect and reconciliation.

178. The DBE has developed Scripted Lesson Plans (SLP) on Comprehensive Sexuality Education (CSE) to strengthen the quality of CSE in the classroom. The aim of the CSE and its SLPs is to ensure that we help learners build an understanding of concepts, content, values and attitudes related to sexuality, sexual behaviour change as well as leading safe and healthy lives.

179. The Department has recently undertaken an evaluation of a broad sample of existing textbooks and learning and teaching support materials (LTSM) with a view to developing a textbook policy aimed at promoting diversity. This evaluation has broadly revealed that textbooks to a greater extent still contain some discriminatory elements. In its response on the recommendations, the DBE has begun reviewing the catalogues system for textbooks and providing stronger teacher support in the use of the texts.

Employment

According to paragraph 132, the Employment Equity Act (1989) was amended in 2013 explicitly to incorporate the concept of equal pay for work of equal value. Please concretize the measures taken to implement the amended Act and to ensure compliance by the private sector.

Response

180. The Commission on Employment Equity (CEE) reviewed the Income Differential Statement (EEA4 Form) that was published in September 2014 to address the gap in the quality of Income Differentials data collected from designated employers. The purpose of the review was to enable both the CEE and the National Minimum Wage Commission (NMWC) to collect better quality data to assess the wage gap between the highest and lowest paid workers; and to equip employers to apply the principle of 'Equal Pay/Remuneration for Work of Equal Value'. This EEA4 Form was published in a government gazette in August 2019.

Please also specify any laws and policies to ensure that women domestic workers are protected by labour laws, including wage and hour regulations, health and safety codes and holiday, vacation leave regulations, and mechanisms for monitoring workplace conditions, in line with ILO Convention No. 189.

Response

181. The Domestic Workers in South Africa are protected in terms of the Basic Conditions of Employment Act no. 75 of 1977 through Sectoral Determination 7 Domestic Worker Sector. Sectoral determination 7 provides guidance on the working hours and prescribe the minimum wage for domestic workers.

182. The Compensation for Occupational Injuries and Diseases Amendment Bill introduced in 2020 to amend the Compensation for Occupational Injuries and Diseases Act, 1993 is an important milestone in protecting the rights of women domestic workers as this Bill has included domestic workers, who were previously excluded from the protection granted by the Act. This decision has also been

confirmed by the Constitutional Court in *Mahlangu and Another v Minister of Labour and Others* (CCT306/19) [2020] ZACC 24, which ruled that the provision in COIDA, which excluded domestic workers from being able to claim from the Compensation Fund in the event of injury, illness or death, is unlawful and violates the rights to social security, equality and dignity.

Please specify measures taken to eliminate horizontal and vertical segregation. Please further concretize any measures taken to economically empower and protect women farmers' labour rights, to encourage young women to this field and to provide women and girls with training and education in agriculture and agro-processing fields.

Response

183. To protect vulnerable employees in a specific sector, the government makes sectoral determinations to provide for minimum conditions for the employment of farm workers. Since 2003, the government through the Minister of Labour has been making Sectoral Determination 13 for Agriculture which establishes and regulates the conditions of employment for employees in the Farm Worker Sector. This Determination is binding and applies to the employment of farm workers in all farming activities in the Republic, and include the following:

Climate change and disaster risk reduction

Please provide details on the ways in which the State party is addressing the impact of disasters and climate change on women and girls, in particular on ethnic minority, rural and poor women, and measures taken to guarantee women's rights, including their right to life, health, food, water, sanitation and development, in the context of the expanding extraction of offshore petroleum exploration and drilling, in line with the Convention and Articles 14, 15, 16, 18 and 19 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), 2003. Please specify measures taken to ensure women's participation in the decision-making processes related to climate change and disaster risk reduction.

Response

184. South Africa's National Environmental Management Act (Act 107 of 1998) recognises the important role of women and youth in environmental management and development. To this end, significant strides have been made by the country in gender mainstreaming. The "Environment Sector Gender Framework" and the "Framework and Strategy toward Gender Mainstreaming in the Environment Sector 2016–2021" are some of the policy frameworks that have been implemented.

185. The purpose of the Strategy toward gender mainstreaming in the environment sector (2016–2021) is to ensure that initiatives in the sector are aimed to support the creation of policies that support gender mainstreaming; and to ensure gender analyses and mainstreaming during the development of new projects and including gender perspective into the whole project cycle management.

186. The Department of Environmental Affairs, Forestry and Fisheries has been championing the advancement of women's economic empowerment and participation in the sector, as well as ensuring that women remain an integral part of government's environment programmes and ensuring inclusiveness in environmental planning and decision-making through capacity building for women owned enterprises to enable their integration of are into the mainstream economic activity in South Africa through the annual "Women in Environment Conference".

187. The dialogue is anchored in the environment sector gender strategy, which presents a comprehensive understanding of gender mainstreaming from an environment and sustainable development perspective and provides guidance on putting gender mainstreaming into practice in programme development and implementation.

188. South Africa have implemented policies and programmes to give practical expression to the rights of women including the rights to life, health, food, water, sanitation and development, and to social support.

189. Women and girls in South Africa are change agents on climate change actions, not only at the household-level, but also as formidable influencers in the professional world, and other spheres of society.

190. Thus, The National Climate Change Response White Paper that enshrines as one of its principles the realisation of special needs and circumstances and under this, (rural) women are singled out as being particularly vulnerable to the negative impacts of climate change given their traditional caregiving roles.

191. DFFE also has in place a National Strategy towards Gender Mainstreaming in the Environment Sector. The Strategy outlines how the sector can, and should, entrench values of gender mainstreaming and gender equality within the running of its environmental programmes. The purpose of this strategy is to ensure that initiatives in the sector are aimed to support the creation of policies that support gender mainstreaming and gender analyses and mainstreaming during the development of new projects and including gender perspective into the whole project cycle management.

192. Furthermore, the established National Women and Environment Forum representing all spheres of government, private sector and organised business, civil society representatives also serves as a platform for women to share experiences, support and acknowledge the contribution of women in environmental management actions.

193. The Department has initiated a project, which will ensure that gender equality aspects are factored into the National Determined Contribution processes by leveraging analysis, strengthening institutional mechanisms, ensuring gender-responsive climate actions, through;

- Designing and implementing targeted training programmes to build institutional and staff engagement capacities of relevant local, provincial and national sector departments on climate change and gender mainstreaming;
- Undertaking gender analysis of the National Determined Contribution key sectors to identify gaps, barriers and constraints for effective gender mainstreaming and develop measures to effectively advance gender equality and women empowerment in the NDC's implementation. This will unlock the country's understanding of the different roles of women and men, the power and decision-making dynamics and who has access to and control of resources in a particular sector, or to understand more broadly how climate change measures may affect them differently;

- Develop South Africa's gender and climate change action plan that addresses existing gaps in policies and strategies and will contribute to a gender responsive NDC implementation;
- Develop a gender and climate budgeting and tracking system, which will guide resources allocation to ensure that both women and men inclusively participate and benefit equitably from enhanced climate action, including NDC updating and implementation;
- Undertake climate change education and public awareness outreach in rural communities targeted towards the population who live in remote rural outskirts in poverty-stricken conditions, with high levels of illiteracy. This activity will involve identifying vulnerable communities in South Africa and prioritise the outreach towards the most vulnerable. The prioritisation is done due to limited financial resources provided;
- Lastly, The Department plan on hosting a national dialogue as part of its efforts to raise awareness on the importance of gender and climate change mainstreaming, the dialogue will target civil society/including those at Community level and youth led, business representative.

Health

According to paragraph 143, there has been a demonstrable increase in women's access to reproductive health care services resulting in a reduction in illness and death among women. Please specify measures taken to continue improving maternal health outcomes, and provide data on the availability and accessibility of sexual and reproductive health-care, including safe abortion services for women and girls, disaggregated by age, race, ethnicity, nationality, socio-economic status, HIV/AIDS status, disability, rural and urban areas, albinism and other status. Please specify measures taken to ensure the quality and acceptability of such services. Please also provide detailed information on the practice of forced/coerced sterilization carried out on women living with HIV in public facilities, and specify measures taken to end this practice. Please also specify the measures taken to ensure accessibility of health services for women with disabilities.

Response

194. The Department is implementing Universal Health Coverage through the National Health Insurance (NHI). NHI is a health financing system that will pool funds to provide access to quality health services for all South Africans, based on their health needs, irrespective of their socio-economic status. As the country continues to pursue NHI, it is a priority to protect the poor, marginalised and most vulnerable population in rendering services and structuring cross subsidisation. The NHI related health system transformation will tackle challenges of rising costs of services, medicines and equipment in the private sector, and resultant inequitable expenditure between the public and private sector in SA.

195. In 2019/20 financial year, the Women, Maternal and Reproductive Health sub-programme focused on the development of the quality improvement initiatives which aimed to improved women's experience of maternal and neonatal care. The respectful care package was tested in City of Tshwane and Mopani district. The lessons learned resulted in the revision of the maternity case record which is comprehensive and strengthen patient centred approach to maternity services.

196. An increased number of persons with disabilities accessed public education through specially designed Information Education and Communication (IEC) material on NCDs and HIV, AIDS, and TB; screening and referrals at Wellness Events, focussed events as well as during other departmental events. Public education events were hosted in Gelukspan District Hospital, Soweto, Tshwane Rehabilitation Centre, City of Tshwane, Manguzi Hospital and George Wheelchair Race. 1 433 persons attended peer training and screening workshops conducted together with the Department of Social Development (DSD) in 4 provinces. The programme also contributed to the development of the first global online training course on TB Spine and research conducted on GBV and Disability.

Rural women

Please specify the measures taken to address negative customs and traditional practices that discriminate against rural women and girls, including those that affect the full enjoyment of the right to property and inheritance. Please also describe the laws, policies and programmes in place to ensure gender equity in land redistribution, land rights and title deeds, as well as rural women's equal access to basic services, clean water, sanitation, economic resources, decision making and participation, including in the design and implementation of local development plans. Please provide data on rural women's economic empowerment, including their access to land, inheritance, basic services, economic resources, participation and decision making, disaggregated by age, ethnicity, race, nationality, socio-economic status, disability albinism and other status.

Response

197. President of South Africa assented the Recognition of Customary Marriages Amendment Act 1 of 2021 which amends the Recognition of Customary Marriages Act, 1998, by regulating proprietary consequences of customary marriages entered into before commencement of the Act. The Act brings provisions of the 1998 Act in line with Constitutional Court judgments in *Ramuhovhi and Others v President of the Republic of South Africa and Others* and *Gumede v President of the Republic of South Africa and Others*. These judgments found s7(1) of the Recognition of Customary Marriages Act to be inconsistent with the Constitution and invalid, because the provision limited the right to human dignity and discriminated unfairly on the basis of gender and race, ethnic or social origin against women.

198. Women who are married under the Customary Marriages Act will now be entitled to a share of the joint estate on either the death of their spouse or when they divorce.

199. The Amendment Act does not change the way customary marriages are concluded or celebrated. While these customs remain unchanged, what does change is that women in customary marriages will now have the same rights and status as other women and men in South Africa and will not be discriminated against. Women who were married into polygamous or monogamous marriages before November 2000 when the previous Customary Marriages Act came into effect, are also included in the amended act. Women will now have the same rights and status in terms of their lawful entitlement to their share of their partner's estate and be classified as married in community of property.

Disadvantaged groups of women

Please indicate the measures taken to implement the Committee's previous recommendation (CEDAW/C/ZAF/CO/4, para. 40), to enact comprehensive anti-discrimination legislation, that would include the prohibition of intersecting forms of discrimination against women belonging to disadvantaged groups, based on multiple grounds, including race, ethnicity, age, sexual orientation, socio-economic status, disability, HIV status, albinism and other status. Please also provide information on measures taken, to prevent discrimination and violence against migrant and asylum-seeking women and their children from other African countries.

Response

200. The South African Government is in the process of developing legislation on the Rights of Persons with Disabilities. The South Africa Law Reform Commission has gazetted a discussion paper in this regard which is currently out for public comments. Once this has been concluded the Law Reform Commission will look at the drafting of legislation itself.

201. National Parliament has also tabled the Hate Crimes Bill for public consultation hearings. This Bill seeks to provide measures for the protection of and promotion of the rights of persons of the LGBTI community especially in respect to discriminatory practices and hate crimes and hate speech.

Please outline measures taken to align customary laws and practices in the field of marriage and family relations, including in areas such as child and/or forced marriage, polygamy, abduction of women and girls for the purpose of forced marriage (*Ukuthwala*), and inequality in succession and inheritance, with constitutional guarantees of non-discrimination based on sex and gender. Please explain any measures taken to create a unified family code in conformity with the Convention. Please also specify any measures taken to abolish discriminatory customary and religious practices, for example, capacity building and guidance provided to non-formal practitioners in the field of marriage and family relations, in line with the Constitution and the Convention. What are the measures taken to ensure equal inheritance rights for widows and widowers, and for girls and boys?

Response

202. Government has embarked on the process of harmonisation of its various pieces of legislation governing marriage in South Africa towards a single Marriage Bill. In this regard, there is a Policy on Marriage that is currently being consulted on in the country which will then inform the development of this harmonised Single Marriage Bill. The Discussion document covers issues of polygamy and polyandry; minimum age of marriage; harmful practices such as forced marriages; *Ukuthwala* and other such practices.