



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

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

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

Observations of South Africa*

[Date received: 11 November 2021]

* The present document is being issued without formal editing.



I. Introduction

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

II. Responses

Findings

Responses

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

- (a) 1, 2(f), 3, 5(a), 10(c) and (h) and 16, for failing to take sustained measures to prevent domestic violence and eliminate harmful practices by eradicating the discriminatory stereotypes and practices that are the root causes of domestic violence;
- (b) 2(b), (e) and (f), read with 5(a), 15 and 16, for failing to specifically criminalize all forms of domestic violence and femicide and repeal provisions that allow, tolerate or condone child and forced marriage and other harmful practices giving rise to such violence;
- (c) 2(b), (c) and (e), read with 5(a) and 15, by failing to effectively enforce and monitor protection orders against alleged perpetrators and impose adequate sanctions for non-compliance;
- (d) 1 and 2(b), (c), (e) and (f), read with articles 3, 5(a), 12 and 15, for failing to systematically prosecute cases of rape and domestic violence ex officio and ensure that questioning and evidence collection in domestic violence cases are not influenced by discriminatory stereotypes and that women's and girls' testimonies as parties or witnesses are given due weight;
- (e) 1 and 2(c), (d) and (e), read with articles 5(a), 12 and 15, for failing to comply with its due diligence obligation to effectively investigate, prosecute and punish cases of domestic including sexual violence and

South Africa has implemented and reviewed several pieces of legislation to date to ensure sustained measures to prevent domestic violence and eliminate harmful practices. On 10 September 2021, the Parliament of the Republic of South Africa passed the amendments of a package of three important interrelated Bills aimed at fighting the scourge of violence against women and children and address a number of issues addressed in the Committee findings. The three Bills are:

- (a) Domestic Violence Amendment Bill, B 20-2020;
- (b) Criminal and Related Matters Bill, B 16-2020;
- (c) Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill B 17-2020

Domestic Violence Amendment Bill

The DVA Bill seeks to amend the provisions of the Domestic Violence Act, 1998 (Act No. 116 of 1998) (the Act), to address practical challenges, gaps and anomalies which have manifested themselves since the Act was put into operation in 1999 and which render women and children helpless to the violence they experience, often in the confines of their homes.

Key intervention 1: Strengthen leadership and accountability

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to provide effective reparation to victims; provide mandatory, systematic and effective capacity-building for the judiciary and law enforcement bodies on the strict application of legislation prohibiting such violence and on gender sensitive methods of investigation, cross-examination, case management and evidence collection; and raise their awareness to eliminate gender bias and discriminatory stereotypes.

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a) Functionary's obligation to report domestic violence

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.

b) Adult obligation to report domestic violence

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.

c) Domestic Violence Safety Monitoring Notice

Clause 4 A (6) of the Bill empowers the court to order the station commander to direct a member of the South African Police Service under their command to contact the complainant at regular intervals by means of an electronic service at an electronic address as specified in an Annexure to the notice, and to enquire about the complainant's wellbeing; and at regular intervals, to visit the joint residence and to see and to communicate in private with the complainant.

d) Electronic Communications Service Providers to assist courts

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.

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

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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.

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

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.

f) Directives for clerks of the court

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.

2. Right to access to justice and victim support services

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

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

South Africa has put in places measures to create a supportive environment for women to report incidences of domestic violence.

The South African Police Services has always worked to provide Victim Friendly Rooms and that Victim Friendly Facilities at police stations and at (FCS) Family Violence, Child Protection and Sexual Offences Units. These facilities provide a private place where victims can be interviewed and statements can be taken assuring that victims' rights are protected. A Victim Friendly Room is a dedicated refurbished room within the premises of police station, established to ensure that victims can report all forms of sexual offences in an environment that assures confidentiality and respect and also upholds their dignity. These services work towards reducing secondary victimisation and enabling victims to

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104. The State party has also failed to adequately inform victims of their rights and explain judicial procedures, including the importance of showing imminent harm for obtaining an eviction order, or appearing at the hearing on return date for obtaining a final protection order, and to capacitate, adequately equip and hold SAPS accountable for protecting and assisting victims. Requiring victims to meet the

provide details that not only assist them as part of a cathartic experience, but also assist in investigation.

The provision of training of the Police members is a crucial element for ensuring that SAPS improves on the services rendered to victims of domestic violence and abuse. First Responder to Sexual Offences course for members of visible policing and client services centre is also provided. Sexual Offences course for investigating officers are also provided.

A number of education and awareness raising campaigns on reporting incidences of abuse and sexual violence are held annually by the SAPS.

In addition, the Member state has implemented a number of programmes and dialogues to destigmatize victims and gender stereotypes.

South Africa conducted National Dialogues across the country and provided platforms for discourse with local communities on their lived experiences on Violence against Women and Children. The National Dialogues were aimed to understand the root caused and manifestations of gender-based violence, to strengthen and enhance community participation and to find solutions.

The programme of national dialogues is also aimed at unravelling reasons why violence against women is not abating despite the unprecedented body of laws and world class institutional mechanisms.

For example, the Western Cape DSD funds court support services at 10 courts in the Cape Town Metropolitan areas and rural areas, to assist victims of gender-based violence to access protection orders and offer psychosocial support.

Parliament is also in the process of finalising the Criminal Procedure Amendment Bill, B 12-2021. The Bill is intended to amend the Criminal Procedure Act, 1977, so as to further regulate the publication of information which reveals or may reveal the identity of, amongst others, a witness or person against whom an offence has allegedly been committed who is under the age of 18 years.

In line with Pillar 2 of the GBVF NSP, the Department of Justice and Constitutional Development implement public education and communication interventions to educate people on their rights to access justice. Information is released through multi-lingual media platforms and in different formats so as to ensure accessibility to diverse court users and the general public.

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

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

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

(b) Limited access to victim support services

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

Provision of legal aid at State expense

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

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

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

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

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

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

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

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underfunded, inaccessible for many women in rural areas, and not all of them operate 24/7. The national machinery for the advancement of women lacks sufficient authority and resources to provide the oversight necessary for setting accountability standards for departments providing victim support services. The failure by the State party to ensure the necessary budgetary allocations for victim support services (CEDAW/C/ZAF/CO/4, para. 25 (d)), such as psychiatric and long-term psychosocial services, professional training and affordable housing, undermines victims' right to an effective remedy.

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sensitive criminal justice that is quick, accessible, and responsive and gender inclusive.

The SOCA unit deliver crucial training sessions nationally on virtual platforms, focusing on sexual offences, domestic violence, maintenance, child justice, trafficking in persons and integrated stakeholder training at TCC sites. Together with experts from various academic institutions, SOCA designed and developed a Court Report Training Manual encompassing all forms of expert assessment reports required in court and the submission of reports and viva voce evidence by experts in court.

The use of court preparation officers by the NPA to prepare witnesses for court is an initiative aimed at empowering witnesses and victims and reducing secondary trauma. In the 2020/21 reporting period, 55 579 witnesses were assisted by the court preparation officers and 4 189 victim impact statements were facilitated. Witnesses appearing in all criminal courts are assisted, however, the bulk of the witnesses are in respect of regional courts cases (83.6%) with a particular focus on witnesses in sexual offences cases (53%).

The Western Cape DSD funds psychosocial services at all Thuthuzela Care Centres (TCC) in the province. Services funded include funding of lay counsellors or social auxiliary workers to provide emotional containment of rape victims when presented at the TCC, as well as funding of social workers to provide long term psychosocial support. The Department has furthermore appointed 30 GBV social workers in 2020 that assist with long-term psychosocial support of victims. Lay counsellors and Social auxiliary workers work under supervision of a social worker.

GBV Command Centre

The Gender Based Violence (GBV) Command Centre is implemented as an initiative of the Department of Social Development. The GBV Command Centre provides immediate care and counselling and offers help, hope and the chance of a better life to the many thousands of victims of gender-based abuse, even in the remotest and most underdeveloped corners of South Africa.

The GBV Command Centre is a comprehensive, integrated system that provides immediate, consistent, coordinated and timely support to victims of GBV. Its services are linked to the services of the SAPS and the Department of Health. The GBV Command Centre uses mobile technology to estimate the location of a

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

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victim, assign the closest social worker in the field to the case, record and receive continuous feedback on the case. The GBV Command Centre employs trained social workers/command centre agents who provide immediate counselling to victims and help them to avoid or minimise further exposure to GBV.

The Department of Social Development carries the responsibility to establish Shelters for victims of crime and violence particularly abused women and their children. These include the White Doors (safe places of hope) and Khuseleka One Stop Centres. The Sheltering services are provincial located and managed.

For example, currently 19 shelters in the Western Cape are funded by the Provincial Department of Social Development and is in the process of activating a further 6 shelters in the rural areas. The Department opted for a holistic funding model of shelters that include unit cost, contribution towards security of shelters, funding of three house mother posts per shelter, skills development for women and the funding of a social worker and social auxiliary worker per shelter (pending on the size of the shelter). The Department has also rolled out a training programme for social workers, house mothers and social auxiliary workers in trauma support.

The National Department of Social Development has embarked on the development of an Intersectoral Policy on Sheltering service to address various issues on the provision of sheltering service such as capacity building of victims in terms of skills development, accessibility of the service to victims, funding of the shelters and role clarification of other stakeholders including the Department of Human Settlement and other.

Khuseleka One Stop Centres

The Department of Social Development has state owned Khuseleka One-Stop Centres. It is a good model because of its multi-sectoral approach and its aim is to provide integrated services that represent a unique partnership between all the departments in the government of South Africa, development agencies and civil society Organizations in the country. Khuseleka One Stop Centre provides a “place of refuge” where victims of crime and violence are offered a continuum of services from one central point within a multidisciplinary approach model with different relevant stakeholders under one roof. It renders a full basket of services including reintegration of survivors into the community and self-reliance.

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

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

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

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

(c) Findings

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

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

Provision of legal aid at State expense

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

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

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

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(b) 2 (c) and (e), 11 (c), 12 and 15, for failing to ensure the necessary budgetary allocations for victim empowerment services and provide appropriate protection and support services, including a sufficient number of adequately funded TCCs, shelters and safe houses, to women and their children;

Pre- and post- trial trauma debriefing services: The CPO will take you through trial trauma debriefing sessions before the trial commences and once it is concluded to help you deal with the trauma of the incident.

Intermediary services: If you are a child victim or a person with mental disability, the prosecutor will apply to court to allow you to testify in a private testifying room with the assistance of an intermediary. The role of the intermediary is to convey questions from court to you in an understandable manner.

Private testifying room/closed court services: If you are an adult witness, the law allows you to testify from a private testifying room via the closed-circuit TV system if you feel more comfortable to do so. This will ensure that you do not need to be in the physical presence of the accused when testifying.

Private waiting rooms for adult and child victims: The child witness room has standard furniture specifically designed to meet the needs of traumatised children. It also provides a play area, reading centre, and a child's bed-sofa for resting. The adult waiting room is also furnished to make the court experience more comfortable for victims. Information services are available at the private waiting rooms for victims, mainly to inform you of your rights and the available court services. The information is offered in the form of educational booklets, DVDs, and in braille.

Witness fee services: The department provides witness fees to cover return travelling costs and food while in court.

Government of South Africa showed commitment to ensure the Budgetary allocations for victim empowerment services in October 2019 when President Ramaphosa announced the introduction of the GBVF Emergency Response Action Plan (ERAP) – funded by a reprioritized budget of R1.6 billion. Over a period of 6 months, i.e. from 1 November 2019 to 31 March 2020, different government stakeholders and civil society organisations were tasked to implement robust interventions to significantly reduce the levels of violence against women and children.

In February 2021, President Cyril Ramaphosa launched a private sector-led, multi-sectoral Gender-Based Violence and Femicide (GBVF) Response Fund aimed at supporting the implementation of the National Strategic Plan (NSP), and the wider response in the country. The fund allocates financial support to

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

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programmes that are based on the National Strategic Plan's six pillars.

In the 2020/21 financial year, the NPA received R16 Million from the CARRA funding for the TCC project for the next three (03) years. Amongst others, it will be used for establishment, maintenance and upgrade of existing sites, training, etc.

Section 11 of the Matrimonial Property Act of 1984 (Act No. 88 of 1984) repealed the common law rule by which a husband obtained the marital power over the person and property of his wife, thus providing protection in divorce. Spouses can choose the matrimonial regime they prefer: community of property; out of community of property; or "accrual" system. In the absence of an explicit choice, community of property applies whereby spouses equally own and administer common property.

The implementation of the Children's Act, Act 38 of 2005 defined the parental rights and responsibilities that parents or other parties may have, and confers equal and joint guardianship status on parents of children born from marriage.

The child's best interest is a constitutional right of every child. In all matters concerning a child, the best interests of the child are paramount. The Act provides a list of factors that have to be considered when determining a child's best interest. Historically, child custody was usually granted to the mother, with the father having access or visitation rights. The system was based on the traditional view of the mother as the primary caregiver, and the language reflected the power that was so often at the heart of family conflicts.

The intention of the Children's Act was to put an end to custody battles that could do more harm to a child than the divorce itself. By putting the interests of the child first, parents have to put their own egos aside and focus on their mutual responsibility to care for the child. The Act also recognises the importance of fathers in a child's upbringing. There is far more emphasis on shared care and an agreed approach to parenting than the historical convention of maternal custody and paternal visitation conceded.

Section 33(2) of the Act does require parents to agree on a parenting plan before seeking the intervention of the court if they are unable to agree on the discharge of their responsibilities and rights. They can seek help from a family advocate, social worker or psychologist in drawing up the plan.

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In 2021, The Department of Justice and Constitutional Development announced an introduction of a system to trace maintenance defaulters to accelerate the finalisation of maintenance applications.

The new tracking system will be use various online databases and “information hubs” to trace maintenance defaulters. These will enable the courts to finalise more cases and assess the finances of parents who should be paying child support. The Department will use Companies and Intellectual Property Commission (CIPC) registrations, cellular phone numbers registered with network service providers, information from credit bureau, vehicle registrations, as well as other paper trails to find maintenance defaulters.

The new system will be able to link defaulters to their businesses and track their assets among other things. This will assist the court to determine the financial positions of defaulters and oblige them to take care of their children accordingly. The Department has thus used the provisions of the Maintenance Amendment Act of 2015, Section 6 of the Maintenance Act of 1998 and Section 28 (2) of the Constitution of the Republic of South Africa to create the system”.

Government of South Africa has introduced the following policies and programmes to ensure access to free basic education:

No-fee School Policy

South Africa began with the ‘no-fee’ school policy (NFSP) implementation on 01 January 2007. The policy abolished mandatory school fees in public ordinary schools to make basic education available to poor learners in the country. In 2019, 87% of schools were no-fee schools that accommodated 79% of learners. These no-fee schools provide much-needed relief for households, as government funding removes the need for parents to pay fees at such schools.

National School Nutrition Programme

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

*Findings**Responses***C. Principal findings of violations under the Convention**

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

D. Grave or systematic nature of the violations

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

National Learner Transport Policy

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

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

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

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

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

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

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

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relationship; or (b) to leave the relationship, at the risk of retaliation, separation from their children, poverty, stigmatization, and with limited access to justice, protection and support services. In either case, victims often find themselves without effective protection from further violence. Victims of domestic violence must thus make a choice between staying in the abusive relationship and enduring the social, economic and safety consequences of leaving it. In both cases, they are at risk of violations of their rights.

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

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

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

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

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

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

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

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government and private sector procurement, employment, housing, access to land, financial resources and income other generating initiatives;

Safe workplaces that are free of violence against women and LGBTQIA+ persons, including but not limited to sexual harassment;

Demonstrated commitment through policy interventions, by the South African state, private sector and other key stakeholders to eliminate the impact of economic drivers of GBV;

Strengthened child maintenance and related support systems to address the economic vulnerability of women.

The finding of grave violation is contestable as South Africa's criminal justice system provides for a number of measures aimed at protecting women and girls from domestic violence. The committee's over reliance on the inputs by the NGO's and stakeholders without subjecting these inputs to scrutiny based on legislative and programmatic interventions that are being implemented is a course for concern.

As previously stated the three key GBV Bills have been passed by Parliament as part of government's promise to GBV activists and women. The three amendment Bills are designed to fill the gaps that allow some perpetrators of these crimes to evade justice and to give full effect to the rights of our country's women and children. The sad reality is that many survivors of gender-based violence have lost faith in the criminal justice system.

The Criminal Law (Sexual Offences and Related Matters) Amendment Act, will create a new offence of sexual intimidation, extends the scope of incest, and widens the reporting duty of those who suspect sexual offences committed against children.

With the amendment, the National Register for Sex Offenders will include information on all sex offenders and not just the particulars of those convicted of sex crimes committed against children or persons with mental disabilities. Offenders will also remain on the register for a longer period and the register will be publicly available.

The Criminal and Related Matters Amendment Bill will intensify the granting of bail to perpetrators of GBV and femicide. The Bill will also expand the

*Findings**Responses*

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

offences for which minimum sentences must be imposed.

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

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

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

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

VIII. Recommendations

A. Legal and institutional framework

118. The Committee recommends that the State party:

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

Findings

(e) Repeal provisions of the Recognition of Customary Marriages Act that allow, tolerate or condone harmful practices such as polygamy and ukuthwala and amend the Act to define the criteria for ascertaining the free, full and informed consent of the women concerned;

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

B. Law enforcement

119. The Committee recommends that the State party:

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

Responses

COGTA would provide necessary capacity building support to run workshops and awareness campaigns on ukuthwala, forced child marriages.

KZN Office of the Premier, NPA, CGE, University of KwaZulu Natal supports a community-based project against ukuthwala under uThukela District. Young women developed a community protocol on combating and reporting incidents of ukuthwala. The protocol has been presented to the Executive Council.

The CGE in partnership with civil society organizations hosted workshop with Traditional leadership of uThukela engaging on the historic and harmful practice of ukuthwala

This Bill is currently redrafted and will be consulted upon in the 2022/23 period.

Part I of Schedule 2 to the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997) (the “Minimum Sentences Act”), makes provision for minimum sentences for certain serious offences, including murder, rape and compelled rape. In terms of section 51(1) of this Act, a regional court or the High Court must sentence a person convicted of an offence in Part I of Schedule 2 to the Act, to life imprisonment.

Clause 15 of the Criminal and Related Matters Amendment Bill substitutes the offence of murder, to include the following offences thereunder in Part I of Schedule 2:

(a) The murder of a person under the age of 18 years; and

(b) the death of the victim which resulted from physical abuse or sexual abuse as contemplated in paragraphs (a) and (b) of the definition of “domestic violence” in section 1 of the Domestic Violence Act, 1998, by the accused who is or was in a domestic relationship, as defined in section 1 of that Act, with the victim.

*Findings**Responses*

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

The Criminal and Related Matters Amendment Bill amends section 59 of the Criminal Procedure Act to provide that an accused may not be released on bail before his or her first appearance in a lower court in respect of an offence against a person in a domestic relationship, as defined in section 1 of the Domestic Violence Act, 1998 (Act No. 116 of 1998).

Section 59A of the Criminal Procedure Act, 1977, provides that a Director of Public Prosecutions or an authorised prosecutor may, in respect of the offences referred to in Schedule 7 to that Act and in consultation with the police official charged with the investigation, authorise the release of an accused on bail. The offences mentioned in Schedule 7, which qualify for release on bail by a prosecutor, include public violence, culpable homicide, assault involving the infliction of grievous bodily harm, arson, robbery, housebreaking, theft involving amounts that do not exceed R20 000, malicious injury to property and the possession of drugs.

However, the Criminal and Related Matters Amendment Bill amends section 59A of the Criminal Procedure Act, 1977, to exclude an offence against a person in a domestic relationship, as defined in section 1 of the Domestic Violence Act, 1998; or section 18(1)(a) of the Protection from Harassment Act, 2011 from the ambit of the application of section 59A. The accused must be kept in custody until he or she appears in court, whereafter he or she may, in terms of section 60 of the Criminal Procedure Act, 1977, make an application to the court to be released on bail.

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

Section 40(1)(b) of the Criminal Procedure Act, 1977, empowers a police official to arrest, without a warrant of arrest, a person whom he or she reasonably suspects of committing an offence referred to in Schedule 1 of the Act. Section 42(1)(a) contains a similar provision empowering a member of the public to arrest, without a warrant, a person who commits in his or her presence or whom he or she reasonably suspects of committing an offence referred to in Schedule 1 of the Act.

In terms of section 18 of the Domestic Violence Act, the National Director of Public Prosecutions referred to in section 10 of the National Prosecuting Authority Act, 1998, in consultation with the Minister of Justice and after consultation with the Directors of Public Prosecutions, must determine prosecution policy and issue policy directives regarding any offence arising from an incident of domestic violence.

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

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

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

*Findings**Responses***D. Victim support**

121. The Committee calls upon the State party to:

(a) Increase the number of and provide sufficient funding to TTCs to ensure that they can operate 24/7, provide adequate medical and psychosocial support to victims of sexual violence, particularly in rural areas, and train social workers on trauma counselling;

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

The Minister of Justice must designate a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, as the Registrar of the National Register for Sex Offenders.

The GBV Command Centre and KZN DSD call Centre operates for 24 hours a day in seven days per week and has the capacity to receive telephone calls from members of the public in need of counselling, conduct intensive telephone counselling sessions and refer the cases for psycho-social service providers for follow up and continuation with psycho-social support by local service office Social Workers.

DSD also funds the Lifeline Organisation who employs Social Workers who render psychosocial support services to victims at 92 Police stations, all 8 Thuthuzela Care Centres and 13 Crisis Care Centres in all Districts.

The Department is currently refining the VSS Bill after it was gazette in the year 2020 and received public comments were processed and incorporated into the VSS Bill. The VSS Bill will be tabled into Cabinet for approval to table into Parliament. The VSS Bill aimed to regulate the victim support services and putting the victim at the centre of the Criminal Justice System.

The Department has also developed the Sector Funding Policy (SFP) model to strengthen adequate funding for the NGOs, currently the Department is finalising the development of guidelines for implementing the SFP. The Victim Support Services Bill has been consulted. The process has commenced with DSD through the review of the sector funding policy. Stakeholders will also be consulted.

National Consultation on the Intersectoral Shelter Policy for Victims of Crime and Violence was held virtually on 09 March 2021, 33 stakeholders participated.

There has been no progress on the acquisition of land where shelters can be based but the process of establishing two Shelters in Ugu and King Cetshwayo District in partnership with the Department of Public Works has commenced.

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

*Findings**Responses*

The Recognition of Customary Marriages Act of 1998 (Act No. 120 of 1998) repealed the Black Administration Act of 1927, which considered customary wives to be minors subject to the guardianship of their husbands. In terms of section 3(1) both prospective spouses must be over 18 years old and must both consent to be married under customary law. Section 6 provides that both spouses are recognized equal status and equal capacity to acquire assets and to dispose of them, to enter into contracts and to litigate. In terms of section 7 customary marriages entered into after the commencement of the Act create a community of property regime, unless the spouses agree differently, while existing marriages remain governed by customary rules. Section 8 provides that divorce may be dissolved by a decree of divorce issued by a court on the ground of the irretrievable breakdown of the marriage, when it has reached such a state of disintegration that there is no reasonable prospect of the restoration of normal marriage relationship. Upon divorce there is equal distribution of the marital property and court orders address issues of child maintenance and spousal support.

Furthermore, the Maintenance of Surviving Spouse Act of 1990 (Act No. 27 of 1990) and the Intestate Succession Act of 1987 (Act No. 81 of 1987) are gender-neutral and both recognise women's inheritance rights (10). Sections 6 and 8(c) of the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 prohibit policies and practices which discriminate against women in the inheritance of family property and any inequitable traditional, customary or religious practice which impairs the dignity of women and undermines equality between women and men.

E. Prevention and awareness-raising

122. The Committee recommends the State party:

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

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

Findings

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

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

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

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

Responses

as agents of change in the fight against GBV and HIV and AIDS.

The Department of Social Development provides financial support to Civil Society Organizations with a focus on education and awareness raising on Gender Based Violence and Femicide (GBVF).

In addition, the Department is launching campaigns targeting traditional and religious/Interfaith leaders in the fight against GBVF at local level. The intention of these campaigns is to address harmful practices and norms both from culture and religion.

The KZN Department of Social Development funds a total of sixty organisations that conducts awareness raising programmes for the general public. The MEC held a dialogue with traditional leaders and healers on 06 November 2021 in order to gain an understanding of their in social mobilisation campaigns to address community cultural norms, values and social practices pertaining to GBV in the Province and ascertain their understanding and knowledge on GBV in order to develop their capacity on sexual and gender-based violence. There will be ongoing discussions and engagements with Traditional Courts as an important platform for addressing and adjudicating gender-based violence cases in communities and need to be revived or strengthened where they already exist.

The Department of Social Development is implementing an integrated campaign at Institution of Higher learning to eliminate stereotyped gender roles and sensitise youth on the harm caused by GBV.

The integrated campaigns at Institutions of Higher learning are also aimed at creating support system for learners and promote/encourage reporting of GBV incidences by both lecturers and learners.

Commemoration of the International Day against Drug Abuse and Illicit Trafficking

South Africa as a signatory to the United Convention, annually commemorates the International Day against Drug Abuse and Illicit Trafficking to create awareness on the dangers of alcohol and drug abuse and encourage communities to take action in fighting the scourge of substance abuse.

In 2020/21 financial year due to COVID19 pandemic, the department commemorated the International Day against Drug Abuse and Illicit Trafficking through a Substance Abuse webinar under the national theme "Value yourself and make healthy choices against

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alcohol, tobacco and drug abuse to minimize the spread of COVID-19. The highlighted the harmful effects of substance abuse as well as the link between substance abuse and COVID-19.

The department also provided information sessions on the risk associated with alcohol drinking during pregnancy targeting youth and women of childbearing age. The initiative was done to eliminate and minimise the risk of Foetal Alcohol Syndrome. Furthermore, pregnant women who drink alcohol were provided with brief counselling and referred for further intervention.

Education and awareness at Institutions of Higher Learning.

The Department implemented National Anti-Substance Abuse Awareness campaigns to create awareness on the harmful effects of substance abuse, gender-based violence and social crime in institutions of higher learning, schools and communities.

Festive Season Campaign

This campaign serves to remind communities about the dangers of alcohol and substance abuse during festive season because many lives are lost in road accidents caused by drinking and driving. Young people get involved in irresponsible sexual behaviour which could lead to different sexual transmitted infections and unwanted pregnancies because of the abuse of alcohol and drugs. The campaign targets shopping malls, taxi and bus ranks, train stations, toll gates, beaches, and also participating in door-to-door campaigns, fun walks, roadblock blitz in partnership with other relevant stakeholders in the field of substance abuse.

Conference on substance abuse and family related interventions

It was held on 31-02 November 2019 in Gauteng Province (Birchwood Conference Centre). The theme of the conference: “The impact of substance abuse on Families”. The main objective was to create a platform for delegates to share information and views regarding substance abuse challenges and dynamics affecting families. The target of the conference was 350 inclusive of Political leaders, Government departments, NGO’s, CBO’s, FBO’s, Research Institutions, Disability Sector, Treatment centres, African Union, SADC Region and International countries. Twelve (12) resolutions were adopted out of

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the conference. These resolutions are implemented through the National Drug Master Plan 2019-2024.

Ke Moja Drug Awareness Programme

The Department of Social Development is continuously implementing the Ke Moja Drug Awareness Programme. Ke Moja is a national programme aimed at raising awareness among South African communities on the dangers of drug abuse and providing alternative healthy lifestyles through education and counselling. The programme has since been evaluated and reviewed in 2011/12 to enhance its content and also accommodate emerging trends in the field of substance abuse. The target for the programme includes children, youth, parents and care givers. To date, five provinces has been capacitated on the reviewed programme and the remaining four provinces will be capacitated in 2021/22 financial year.

Siyalulama Outreach Programme

The purpose of this programme is to take services to people who are affected by the Substance Use Disorders and who cannot take initiative in reaching out for such services. During 2021/22 financial year, the outreach programme was conducted at Hammanskraal,

Bronkhorspruit, Tembisa, Dobsonville, Charlestown and Newcastle. The Department will continue with the outreach programme during 2021/22 financial year

Treatment Programme

The department has adopted the Universal Treatment Curriculum (UTC) since 2019. The aim of the curriculum is to assist countries cadres in the field of substance abuse to increase their skills, knowledge and capacity relating to prevention, treatment, care and support. The curriculum has been Internationally Certified for Addiction Profession (ICAP) cadres in the field of substance abuse. To date, twenty-five (25) Master Trainers have completed ICAP1 training, passed exams and are now certified addiction counsellors. The department has also echo trained more than 260 cadres who will be writing exams before the end of September 2021. The curriculum is implemented in three public treatment centres since 2020 and has been extended to four more additional centres in 2021/22 financial year. Access to treatment services was increased through the building of treatment centres in all provinces. There are 13 public treatment centres in the country. Nine (9) of the public

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treatment centres admit women, men, youth and children in a demarcated ward.

The National Drug Master Plan 2019–2024

The National Drug Master Plan 2019–2024 was approved by Cabinet in October 2019. The plan advocates for the reduction of demand for drugs in communities. Provincial Substance Abuse Forums were capacitated to prevent those who have not started using drugs and treat those who have started using drugs. During capacity building workshops the emphasis under demand reduction were the following:

Individual oriented strategies such as community-based and participatory educational programmes, whereby the participants are trained to counter social pressure;

Environment oriented strategies such as participatory efforts to redress socio-economic deprivation and increase opportunities for non- risky activities;

Specialised and broad-brush clinical services that provide short and long-term therapy as well as other services such as medical treatment, occupational training that are aimed at reducing drug related harms, disability, enhance rehabilitation, prevent relapses and recurrences of drug misuse and Substance Use Disorders, and

Community-based information campaigns that assist the public to detect risky drug use early and access appropriate services.

The National Drug Master Plan 2019–2024 prioritised populations for interventions as follows:

Youth in and out of school/ institutions of higher learning;

Children;

Women;

Persons with disabilities;

Pregnant women;

Families in all their manifestation including child-headed families;

Disadvantaged people in vulnerable communities; Occupational groups at risk (such as artists, athletes and professionals), and

Key populations (such as LGBTIQ, sex workers, migrant workers etc.).

F. Accountability and data collection

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

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