



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

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

**Fifth periodic report submitted by South Africa under
article 18 of the Convention, due in 2015***

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* The present document is being issued without formal editing.



ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
ART	Anti-Retroviral Treatment
CAPS	Curriculum Assessment Policy Statement
CARMMA	Campaign on Accelerated Reduction of Maternal and Child Mortality
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEM	Community Education and Mobilization
CEO	Chief Executive Officer
DBE	Department of Basic Education
DHET	Department of Higher Education and Training
DoJ&CD	Department of Justice and Constitutional Development
DRDLR	Department of Rural Development and Land Reform
dti	Department of Trade and Industry
FCS	Family Violence, Child Protection and Sexual Offences
HIV	Human Immuno-deficiency Virus
HTA	Higher Transmission Area
IDC	Industrial Development Corporation
IDMT	Inter Departmental Management Team
ILO	International Labor Organization
IOM	International Organization for Migration
IDP	Integrated Development Plan
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI)
MATTSO	Ministerial Task Team on the Adjudication of Sexual Offences
MMR	Maternal Mortality Rate
NCS	National Curriculum Statement
NDP	National Development Plan
NEF	National Empowerment Fund
NSC	National Senior Certificate
NTT	National Task Team
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act
PMTCT	Prevention of Mother to Child Transmission
RCMA	Recognition of Customary Marriage Act

SAMDI	South African Management Institute
SANAC	South African National Aids Council
SALRC	South African Law Reform Commission
SAPS	South African Police Services
SASSA	South Africa Social Security Agency
seda	Small Enterprise Development Agency
sefa	Small Enterprise Financing Agency
SMME	Small, Medium and Micro Enterprises
SOCA	Sexual Offences and Community Affairs
STI	Sexually Transmitted Infection
TB	Tuberculosis
TCC	Thuthuzela Care Centre
TiP	Trafficking in Persons
UN	United Nations
VAWC	Violence against women and Children
MTSF	Medium Term Strategic Framework

Introduction

Background and scope of the report

1. This is South Africa's 5th Periodic Report on the Implementation of CEDAW 2009–2014. The report responds to the Concluding Observations issued by the Committee after the consideration of the Combined 2nd, 3rd and 4th South African CEDAW Report: Progress made on the implementation of the Convention 1998–2008. It will further give an account on progress made, achievements and also challenges in the implementation of the Convention for the period 2009 to 2014. The report also responds to the General Recommendations No.1 to 33 of the Committee where applicable.

2. The country notes with regret that it submitted its responses to paragraph 48 of the Concluding Observations in September 2015 (late for the requested date of February 2013) and that this 5th Periodic Report was not handed in February 2015 as requested.

3. This report is a product of an extensive public participation process and it includes information provided by civil society, by labour and by business alongside the information made available from government departments. This report is therefore an outcome of an open consultation process, involving discussions with stakeholders in representing different sectors as well as publication of the draft report for public comment. A detailed consultation report is attached as annexure 1.

4. The report is presented in this manner: (i) Introduction: Background, scope of the report and overview; (ii) Part 1: Article 1–6; (iii) Part 2: Article 7–9; (iii) Part 3: Article 10–14; (iv) Part 4: Article 15–16; (v) Part 5: General Recommendations 12 and 19; and (vi) Conclusion.

Overview

5. Census 2011 data indicates that the South African population is marginally more female. Women constitute 51.3% (26 581 769) of the population while men constitute 48.7% (25 188 791). The gender demography has always reflected a high number of women as in 1996, 2001, 2007 and 2011 with women being 51.9%/52.2%/51.7% and 51.5% respectively.

6. More people are living in urban areas than in rural areas, however more women can be found in rural areas (62.5%) as compared to 37.5% in urban areas. This can be attributed to migratory labour patterns in the country.

7. 41.2% of house-holds are headed by females. The percentage of female heads of households increased with age. They are divided as follows: 34.4% for the 18–34 year age group; 40.2% in the 35–59 year age group; 47.7% for the 60–69 year age group and finally peaking at 60.2% at the 70+ year age group.¹

8. Female headed house-holds generally contain more dependents and have a larger average household size. Approximately 10% of female headed house-holds are “skip-generation” house-holds (where grandparents, especially grandmothers care for orphaned or grandchildren from absent parents), compared to 3.2% of male headed house-holds.² The percentage of “skip generation” house-holds is even larger among older persons (15.1%). Census 2011 also found that extended families comprised

¹ According to Census 2011, Statistics South Africa.

² Census 2011.

31.8% of female headed households compared to 18.4% of households headed by males.

Part I

Articles 1–8

Article 1

Definition of Discrimination against women

9. The definition of discrimination was covered in the previous report and the Common Core Document.

Involvement of Parliament in the implementation of the Convention and the Concluding Observations

10. The Parliamentary Portfolio Committee on Women and the Select Committee on Co-operative Governance and Traditional Affairs (Women, Youth and Inter-Governmental Relation matters) have since 2014 exercised their oversight functions by requesting government departments to account on measures undertaken to empower women. They may request for a report on implementation of legislation. They also conduct monitoring visits to government programmes on empowerment at local level. In addition, the Committees hold public hearings on issues concerning women, and especially the impact of certain legislation, such as the Domestic Violence Act, Maintenance Act, and the Sexual Offences and Amendment Matters Act. Parliament and provincial legislatures also hold annual “Women’s Parliament” sessions during the National Women’s Month in August, host debates on the 16 days Campaign of “No Violence Against Women and Children”, as well as annual sessions of “Taking Parliament to the People”.

Visibility of the Convention and its Optional Protocol

11. The Concluding Observations were circulated widely via email to stakeholders such as government, Parliament, the Commission for Gender Equality, civil society organisations, media, sports fraternity; traditional and religious, labour movements, judiciary, business and any other interested parties.

12. The Women’s Human Rights Resource Book, a resource book on international and regional instruments and institutions that support gender equality was published by the Department of Justice and Constitutional Development, and was distributed to all judicial workshops and conferences. Furthermore, the South African Chapter of the International Association of Women Judges adopted the Jurisprudence of Equality Programme with an objective of training members of the judiciary on the development of the jurisprudence of equality through the use of international instruments including CEDAW and its Optional Protocol.

13. The South African Women Lawyers Association has training programmes on international instruments, as well as on litigation to promote human rights for its members which includes male lawyers as friends of the Association.

14. In order to popularise the CEDAW Committee’s General Recommendations 12 and 19, the State coordinates stakeholders to promote women’s human rights and collective responsibility in the fight to eradicate violence against women and children through the “#CountMeIn” Campaign to shift society’s perception on their role in acknowledging that violence against women and children is a crime that affects the entire society.

Incorporation of the Convention

15. South Africa refutes the assertion made in paragraph 14 of the Committee's Concluding Observation stating that: "neither the Constitution nor other relevant legislation of the state party embodies the principle of substantive equality between women and men." Article 1 of the Convention may not be verbatim in the Constitution and legislation on equality but they both embody the principle of substantive equality between women and men and prohibit direct and indirect discrimination against women. South Africa has one of the best Constitutions and bodies of legislation in the world, including the enforcement institutional mechanisms such as the Constitutional and Equality Courts.

16. South Africa's Constitution has a mixed approach to the incorporation of international law into the country's domestic law. It assumes a dualist approach in relation to treaties and a monist stance in respect of customary international law.³ The dualist approach means that international law is not directly applicable domestically. It must first be translated into national legislation before it can be applied by domestic courts.

17. South Africa is a signatory to many international instruments which makes it difficult to mention all these instruments in the Constitution. However, Section 39(1) (b) provides that the court must consider international law on interpretation of the Bill of Rights; this includes consideration of CEDAW and its Optional Protocol. The founding principles of the Constitution elevate human rights, equality and freedom for everyone. Gender equality is a core right and principle of the South African Constitution. In addition to singling out non-sexism as one of the core values upon which the new South Africa is founded, the Constitution champions the achievement of equality, including gender equality, throughout its provisions and particularly in Section 9 thereof.

18. The Common Core Document provides information on how the Constitution of the Republic of South Africa incorporates CEDAW and other International Instruments. Specific reference in this regard is Section 7 (1) (2), Section 9 (1) (2) (3) (4) (5), Section 10 and Section 39 (1).

19. The previous report referred to the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) (PEPUDA). This report highlights Section 1 (viii) as it defines discrimination as meaning any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly – (a) imposes burdens, obligations or disadvantage on; or withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds as it relates to incorporation of the Convention.

Equality law and access to equality protection

20. The Green Paper towards the Women's Empowerment and Gender Equality (WEGE) Bill lapsed in April 2014. The detailed explanation of the processes undertaken has already been submitted to the UN Office of the High Commissioner on Human Right in September 2015.

21. In 2009, all Magistrates' Courts and High Courts were designated as Equality Courts. Regulations for Equality Courts have also been promulgated.⁴ This has improved access to justice as the public can now lodge complaints of unfair discrimination at the Courts nearest to their community.

³ Deputy Chief Justice D Moseneke, "The role of comparative and public international law in domestic legal systems: a South African perspective" December 2010.

⁴ Government Notice No R764 of 13 June 2003 (Government Gazette 25065).

22. Persons needing assistance when approaching the Equality Court are usually assisted by the clerk of the Equality Court, the South African Human Rights Commission or the Commission for Gender Equality, as the need arises. Although the Equality Court is a formal court sitting, the rules and procedures are more relaxed than in normal courts as legal representation is not necessary and complainants do not have to pay any court fees. Different Equality Court matters such as harassment, hate speech and unfair discrimination that have been registered are 618 during 2012/2013, and 638 during 2013/2014.

23. During the reporting period a 3.24% increase of new matters was observed. Hate Speech and Unfair Discrimination were the leading complaints in 2013/2014 with 255 and 217 respectively. While there is a 4% decrease in hate speech complaints, unfair discrimination increased by more than 40% during this period.

24. During the reporting period, there was a 30% decrease in the total number of cases disposed of. Out of the total cases disposed of, 31.5% were referred to alternative forums. Although an increase in cases enrolled at these courts has been witnessed, it is nonetheless a matter of concern to the government that the Equality Courts are underutilised.

Landmark decisions on discrimination

25. In the case of MEC for Education: Kwazulu-Natal v Pillay⁵ the Constitutional Court held that a school policy that forbids the wearing of a small nose stud as a religious and cultural expression, is discriminatory and unconstitutional. The evidence before the Court showed that the wearing of a nose stud was a voluntary practice that formed part of the learner's South Indian Tamil Hindu culture, which was part of her Hindu religion. The school and its policy had therefore interfered with her right to religion and culture. As that burden was not imposed on others, the school's interference amounted to discrimination against her.

26. In the case of Hassam v Jacobs NO,⁶ 2009 ZACC19, the applicant, whose husband had died intestate, was a party to a polygamous Muslim marriage. The Constitutional Court held that precluding the applicant from inheriting unfairly discriminated on the grounds of religion and was therefore inconsistent with section 9 of the Constitution. The Court thus declared invalid section 1(4) (f) of the Intestate Succession Act⁷ which excluded widows of polygamous Muslim marriages from the protection of the Act. Accordingly, it was held that the applicant could inherit. The ambit of this judgment extended the ruling in *Daniels v Campbell* to polygamous Muslim marriages.

27. Monogamous Hindu marriages also received legal recognition during the period under review. In the case of *Govender v Ragavayah, NO*⁸ the court examined Constitutional Court cases which have extended the ambit of the Intestate Succession Act. The court found that the conclusion of a marriage in terms of Hindu rites and custom is an inherent element of the right and freedom associated with religious and cultural choices. Accordingly, it held that there is judicial support for the proposition that a spouse of a "marriage" by Hindu rites may well have the religious "marriage contract" given some recognition by South African law.

⁵ 2008 (1) SA 474 (CC).

⁶ (2009) ZACC 19.

⁷ Act No 81 of 1987.

⁸ 2009(3) SA178 (D).

Article 2

Policy Measures

Access to Justice

28. Legal Aid South Africa is an independent statutory body established by the Legal Aid South Africa Act, 2014 (Act No. 39 of 2014) (Legal Aid Act) with a mandate to give legal aid or to make legal aid available (within its financial means) to indigent persons. It provides legal representation at State expense, as set out in the Section 35(2) (c) of the Constitution and relevant legislation giving content to the right to legal representation at State expense.

29. Section 35(2)(c) states that “Everyone who is detained, including every sentenced prisoner, has the right (c) to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly.”

30. The Legal Aid Board Justice Centres provide legal representation to the indigent in the country and their addresses are made available to the public. The Legal Aid Board has identified women and children’s rights (as well as land issues) as deserving of special attention in the provision of its legal services.

Mobilisation against the Traditional Courts Bill

31. The Traditional Courts Bill was not passed by Parliament in 2014 due to mobilisation by women against it. The main concern was that the Bill, if enacted, will promote gender inequality and undermine women emancipation particularly in rural areas. It is however acknowledged that these courts exist. Therefore it is a constitutional imperative that traditional courts should be transformed to suit the democratic dispensation. This explains that the process on policy dialogue on traditional courts reform has started.

32. Efforts have been stepped up to transform the traditional courts to bring them in conformity with the Constitution and work on the processes of revising the Traditional Courts Bill with a view of incorporating the wealth of submissions and commentary garnered during the lengthy public participation process. The Department of Justice and Constitutional Development is working steadfastly with the Department of Traditional Affairs to bring these legislative reforms to finality.

Training on application of legislation prohibiting discrimination

33. The South African Government has established training institutions to provide systematic training on the application of legislation prohibiting discrimination. They include the South African Judicial Education Institution (SAJEI) which is responsible for training members of the judiciary; Justice College and Police Academies in all Provinces. The National School of Government provides training to all public service. Gender mainstreaming and gender budgeting is inclusive in the training to meet its service delivery needs and to develop a professional, responsive and capable public sector, driven by the imperative of a developmental state.

National Machinery

34. In 2014, the incoming Fifth Administration elevated the status of women’s issues by establishing a dedicated Ministry, the Ministry of Women and locating it strategically back into the Presidency. The Ministry has greater authority and a mandate to promote women’s socio-economic empowerment and gender equality which includes a monitoring and evaluation function over other line ministries to promote mainstreaming of women’s empowerment and equality across Government,

private sector and civil society in general. The Ministry and its Department is guided by the South African National Policy Framework for Women's Empowerment and Gender Equality (2000).

35. The Ministry has reviewed the Department's institutional capacity and is putting in place human, financial and technical resources in order to strengthen its capacity to monitor and evaluate the impact of programmes on women's empowerment, to report and make recommendations, to coordinate stakeholders and its outreach capacity.

36. The Department of Public Service and Administration has ensured that South African public service departments all have a gender focal point, albeit that there is unevenness in the level of the posts, and in their location. In addition, there is increasing emphasis on the importance of gender planning and budgeting and reporting in government.

Article 3

Guarantee of Basic Human Rights and Fundamental Freedoms

Measures to address harmful traditional practices

37. *Ukuthwala* is an "irregular" form of marriage which was practised in a certain culture. It was characterised by a staged abduction between two consenting adults who either lacked the bride price to get married, or whose parents were disapproving of the proposed marriage. The main aim was to force the girl's family to enter into marriage negotiations. The practice in its original form had a number of legitimate cultural goals and had built-in protection for the young woman: the man was not permitted to seduce the girl once she has been abducted as part of *Ukuthwala*, and if he did do so, he was fined. In its original form *Ukuthwala* did not involve children and rape was not permitted.⁹

38. In 2009, the government was made aware of the misuse of the *Ukuthwala* practice, where young girls between the ages of 12 and 15 years were being abducted. Meetings took place among traditional leaders, provincial government departments, women, men and children in the affected localities in order to establish the extent of the problem. Awareness raising *Indabas* were conducted by members of the executive. This included Ministers championing gender equality, safety and security, justice, National Prosecuting Authority, health, education and basic services (local government). A pledge was signed between the former Minister in the Presidency, King Sigcawu as well as other traditional leaders. Pamphlets to raise awareness were created which outlined the laws that prohibit this practice, its impact on the country and also information on services available. A boarding house/hostel for victims was established in the affected locality.

39. Section 28 of the Constitution states that a child's best interests are of paramount importance in every matter concerning the child and that a "child" means a person under the age of 18 years. Therefore custom, cultural or religious rights cannot undermine the rights of children. South Africa regards the abuse of *Ukuthwala* as a criminal and harmful practice that robs children of their childhood and impacts negatively on their health, development and gender equality. The practices that are dehumanising to young girls and women are regarded as unfair discrimination and rights espoused in PEPUDA can be enforced in the Equality Courts.

⁹ An exploratory study on the interplay between African customary law and practices and children's protection rights in South Africa, 2011 by Commissioned by Save the Children Sweden Southern Africa Regional Office.

40. Section 17 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, Act 32 of 2007) prohibits the sexual exploitation of children by their parents and others. Parents, relatives or others who collude in, or aid and abet, the unacceptable practice of *Ukuthwala* of a girl child commit the crime of the sexual exploitation of children. These parents and relatives also face being charged with Trafficking in Persons, under Section 71 of this Act.

41. Court decisions on *Ukuthwala* include the Jezile v S and Others (A 127/2014) [2015] ZAWCHC 31¹⁰ and Limpopo Province Court decision on child marriage.¹¹

42. Government has public education initiatives and utilises a combination of various communication platforms such as media, public exhibitions, educational imbizo's and government websites to promote the rights of women, children, older persons, persons with disabilities, the Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) community and other marginalised groups. These initiatives are a means to reach out to communities in an effort to raise awareness on legal recourse and redress measures available.

43. Article 5 of the report has a dedicated section that addresses all public awareness programmes that took place during the reporting period titled "Awareness raising and education programme on violence against women and girls".

Addressing virginity testing

44. The consultation process during the development of the Children's Act, 2005 (Act No. 38 of 2005) revealed that some of the young girls believed that virginity testing encourages them to abstain until marriage. The challenge to the country's democracy in the context of its history is that indigenous cultural practices were marginalised and distorted for a long period. There is a need to find the appropriate balance between recognising our diverse cultural practices and respecting the constitutional framework which promotes the values of human dignity, the achievement of equality, the advancement of human rights and freedoms.

45. Section 16(1) of the Constitution provides that: "Everyone has the right to freedom of expression ...". Section 12 of the Children's Act, 2005 (Act No. 38 of 2005) states that: "12 (1) Every child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her wellbeing". Specifically, it goes further to prohibit virginity testing for children under the age of 16. Section 12 (4) states that "Virginity testing of children under the age of 16 is prohibited." This measure is an effort to protect children who may not be able to express themselves freely in addressing social, cultural and religious practices detrimental to their wellbeing.

Recognition of polygamy in South Africa

46. The development of legislation relating to customary and religious marriages had to comply with the provisions of the Constitution to ensure that the rights to equality, freedom from unfair discrimination; dignity; practise freedom of religion,

¹⁰ In February 2014, the Wynberg Regional Court convicted a man found guilty for *Ukuthwala* on three counts of rape, human trafficking and assault and sentenced him to 22 years behind bars. In addition, court ordered that his name be included in the National Register for Sexual Offenders in accordance with Section 50(2)(a) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) (the Sexual Offences Act). He appealed the conviction and sentence at the Western Cape High Court but on 23 March 2015, the full bench of the High Court rejected his appeal and confirmed the decision of the court a quo.

¹¹ In 2015 the Mokerong Regional Magistrates Court sentenced a 60-year-old man who married a 13-year-old girl to 5 years imprisonment. The State is appealing the sentence as being too lenient and has indicated that it will review the laws governing child marriages for more protection.

belief and opinion; language and culture; and cultural, religious and linguistic communities is attained.

47. The Recognition of Customary Marriages Act (RCMA), (Act No. 120 of 1998) gives recognition to both monogamous and polygamous marriages, meaning that when a person is a spouse in more than one customary marriage, all such valid customary marriages, entered into before and after the commencement of the Act are for all purposes recognised as valid and equal marriages. The RCMA was fully elaborated on in the previous report.

Article 4

Temporary Special Measures

48. The 2014 Presidential Declaration to establish the Department of Women evolved from an organisation that focused on the plight of marginalised and vulnerable groups to an organisation that is focusing on women socio-economic empowerment and gender equality. The reconfiguration and reorganisation of the Department provides focused attention on issues of socio-economic empowerment and gender equality.

49. Government initiated a strong nation building programme in the country and actively promoted the concept of social cohesion in line with the country's National Development Plan's (NDP) 2030 vision and trajectory. Government's Medium Term Strategic Framework (MTSF) (2014–2019) comprises 14 outcomes. One of the Outcomes specifically focusing on Nation Building and Social Cohesion is aimed towards South Africans being more conscious of the things they have in common with each other than their differences.

50. On August 9, Women's Day 2015, the President released the first government report on the Status of Women in the South African Economy since the establishment of the Ministry responsible for Women in the Presidency in May 2014.

Article 5

Sex Role Stereotyping and prejudice

51. South Africa is against sex role stereotyping as noted in the cases of the Head of Department, Department of Education, Free State Province v Harmony High School.¹² The Court considered the rights of pregnant learners and policies which state that they must be absent from school for a certain period of time. The policy further allows boys responsible for impregnating girls to continue with their studies unpunished but requires that girls be dismissed and repeats the year of study. The Court found that these policies violate pregnant learners' constitutional rights and therefore ordered that the policies be reviewed as they lead to unfair discrimination, which treats boys and girls differently. Pregnant learners are now allowed to attend school until giving birth and are re-admitted as soon they are ready to proceed with their schooling.

Violence against women

Comment on the report commissioned by the Government, done by the Centre for the Study of Violence and Reconciliation

52. The report commissioned by the Government in 2007 compiled by the Centre for the Study of Violence and Reconciliation did not provide any new information but

¹² 2013 (9) BCLR 989 (CC).

rather confirmed what government already knew and for which they had developed and implemented a plan. This transpired through the establishment of the Sexual Offences and Community Affairs (SOCA) Unit, Inter Departmental Management Team, Thuthuzela Care Centres (TCC), Ndabezitha dialogues and many other initiatives.

53. Outcome 3 in the MTSF provides that “All people in South Africa are and feel safe”, and includes integrated government interventions against sexual offences.

Accountability mechanism for implementation of policies and legislation

54. The Ministerial Task Team on the Adjudication of Sexual Offences Matters (MATTSO) was established as a measure to implement the Criminal Law (Sexual Offences and Related Matters) Amendment Act, (Act No. 32 of 2007) through the investigation of the viability of re-establishing the Sexual Offences Courts which was officially handed to the Minister of Justice in August 2013. The initiative was also adopted by Parliament in 2014 when it passed the Judicial Matters Second Amendment Act, 2013 (Act No. 43 of 2013). The amendment includes the insertion of Section 55A to provide the Minister of Justice and Correctional Services with the authority to designate a court as a Sexual Offences Court and for Government to develop regulations that will guide resourcing and management of these courts.¹³

55. The National Strategy for Intersectoral Management of Sexual Offences¹⁴ 2014 was established to encourage the inter-sectoral approach to all matters relating to sexual offences courts. The Strategy provides for the minimum uniform personnel required at each sexual offence court as well as access to services such as court preparation programme; information material.

56. The MATTSO report provided a new Sexual Offences Court Model that must be followed. It identified 57 Regional Courts that were resourced closest to the Model and recommended that those courts be upgraded to Sexual Offences Courts over a period of 3 years commencing in the 2013/2014 financial year. It also recommended the establishment of the governance structures, the National Sexual Offences Courts Committee, which was established in October 2014, to manage the courts. The Committee considered the Draft Regulations for Sexual Offences Courts and commissioned the Feasibility Study on the Provision of Nutritional Food for Child Witnesses in partnership with UN Children’s Fund.

57. On 23 August 2013 the first sexual offences court was launched in the Eastern Cape rural community. From 6 August 2013 to 31 March 2014, a total of 21 sexual offences courtrooms were established in accordance to the requirements of the new MATTSO Model which seeks to provide a variety of support services to the victims of sexual offences. An additional 12 courts were established in 2014/2015 to bring the total number of sexual offences courtrooms to 33. South Africa set a trend that some countries leading in the intervention against gender-based violence found it worthy of adoption. As at December 2012, there were 322 CCTV systems, 98 One-Way Mirrors and 220 Witness Testifying Rooms. The re-establishment of the Sexual Offences Courts has therefore increased the physical resources by adding the following between 2013/2014 and 2014/2015.¹⁵

¹³ Input from Department of Justice and Constitutional Development: January 2015.

¹⁴ JCPS Working Group (Devcom) input: January 2015.

¹⁵ Departmental Annual Reports on the Implementation of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007: April 2013–March 2014 and April 2014–March 2015.

<i>Sexual Offence Courts Established</i>							
<i>Year</i>	<i>Dual View CCTV System</i>	<i>Testifying Rooms</i>	<i>Private Child Teen Waiting Rooms</i>	<i>Private Adult Waiting Room</i>	<i>Bar Fridge</i>	<i>Micro Wave Oven</i>	<i>Information Screens</i>
01 Aug 2013 to 31 Mar 2014	21	21	17	17	18	18	34
01 Aug 2014 to 31 Mar 2015	34	33	28	27	28	28	55

58. In 2014/15 Government established a personnel structure creating posts of 185 courts and 9 regional intermediaries. The recruitment process for newly created posts will commence in 2015/16 for the post structure to reach 194 personnel.

59. South African Police Service (SAPS) conducts regular station visits to monitor compliance. Provincial and National Domestic Violence Work Sessions were facilitated in 2012 to address challenges experienced in terms of the implementation of the Act and National Instructions on domestic violence.

60. With the promulgation of the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011) effective from 1 April 2012 and the Civilian Secretariat for Police Act, 2011 (Act No. 2 of 2011) effective from 1 December 2011, the SAPS is now obligated to report all misconduct cases pertaining to non-compliance with the Domestic Violence Act, 1998 (Act No 116 of 1998) to the Secretariat as of 1 April 2012.

61. In the past 5 years, several interventions were introduced to address gender-based violence and sexual offences against women and children. Government re-introduced the specialised Family Violence Child Protection and Sexual Offences (FCS) Units and there are now 176 FCS units attached to all police stations nationally. By 2013 there were 1 194 life sentences secured over a three-year period: 306 in 2010/2011; 389 in 2011/2012 and 499 in 2012/2013. Sentences passed over this period led to a combined 36 225 years of imprisonment.

62. The Victim Friendly Facilities rendering victim support services continue to be rolled out in police stations and the ideal would be to have them in all stations. As at November 2014, there are 1 137 police stations rendering these services which provide a private place where victims can be interviewed and statements can be taken assuring the victims' rights and protection. All these services work towards reducing secondary victimisation.

63. The number of Thuthuzela Care Centres (TTCs) in the country has increased.¹⁶ Conviction rates in the prosecution of sexual offences reported at TTCs were 60.7% in 2011/12, 61.03% in 2012/2013 and peaked to 65.9% 2013/14, which was the best conviction rate over a period of 5 years.¹⁷ In 2011, the UN Secretary-General, Mr. Ban Ki Moon, recognised the 'Thuthuzela model' as a "world best practice model" in the field of gender violence management and response.

64. The National Register for Sex Offenders came into operation in June 2009 in terms of Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment (Act No 32 of 2007) with the objective of protecting children and persons who are mentally disabled by establishing and maintaining a record of persons who have been convicted of a sexual offence. The Register's progression/cumulative numbers in the past four financial years are as follows:

¹⁶ National Prosecuting Authority input into the Report; January 2015.

¹⁷ Ibid.

2011/2012	2012/2013	2013/2014	2014/2015
2 340	3 526	15 545	17 500 ¹⁸

65. The national register is available to employers in the public or private sectors, especially schools, crèches and hospitals, where it is required to verify the suitability of an individual to work with children or mentally disabled people.

66. A number of statutes have been adopted to fight national and transnational crime and corruption.¹⁹ In the last five years a cyber-crime policy has been developed and is being implemented. During 2011/12 and 2012/13, the courts finalised 216 cyber-crime cases with a conviction rate of 87.5% and 136 cases with a conviction rate of 97.8% respectively.

67. Despite the country's successes some broader challenges remain. These include the need for a better understanding of line functions of inter- and intra-departmental structures as well as the need for improved synergy with regard to departmental policy areas for service delivery. In certain instances a lack of coordination and uniformity of services has been identified.

68. In resolving this challenge, government developed the South African Integrated Programme of Action Addressing Violence Against Women and Children (VAWC) (2013–2018). The Integrated Programme of Action operates on three main pillars, namely; prevention and protection, response, care and support. The focus and rationale is a shift in national programming approaches away from crisis response to that of prevention and early intervention. The main objectives are (i) Prevent VAWC from occurring through a sustained strategy for transforming attitudes, practices and behaviours, (ii) Respond to violence in an integrated and coordinated manner by ensuring a comprehensive package of services to affected women and children, (iii) Ensure provision of long-term care, support and empowerment of survivors of violence, (iv) Ensure provision of reintegration and rehabilitation services for perpetrators of violence, and (v) Strengthen the system at all levels that prevent and respond to violence to ensure accountable and coordinated action across sectors.²⁰ All relevant government departments have responsibilities in the implementation of the Integrated Programme of Action.

69. This Integrated Programme of Action has four key outcomes that must be achieved by 2018: (i) The creation of a national enabling environment to transform attitudes, practices and behaviours leading to women and children living free from violence in line with human rights principles; (ii) Women and children at-risk and survivors of violence must benefit from improved access to comprehensive, integrated and timely support services; (iii) There must be an increased number of female and child survivors utilising long-term care, support and empowerment services; and (iv) Ensuring that women and children are better protected from violence through a strengthened system with supportive legislative, policy,

¹⁸ DOJ&CD: REPORT on the implementation of Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007: 01 April 2014 to 31 March 2015.

¹⁹ The Prevention of Organised Crime Act, 1998 (Act No 121 of 1998); Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004); Firearms Control Act, 2000 (Act No 60 of 2000); National Convention Arms Control Act, 2002 (Act No 41 of 2002); and Financial Intelligence Act, 2001 (Act No 38 of 2001) serve as legal frameworks to fight transnational crime corruption, illegal arms and money laundering. The Criminal Procedure Act, 1977 (Act No 51 of 1977) provides for rules of procedure in dealing with criminality from the investigation and trial stages.

²⁰ South African Integrated Programme of Action Addressing Violence Against Women and Children (VAWC) (2013–2018).

institutional frameworks, adequate resources, organisational capacity and a comprehensive and evolving evidence base.

Budgetary allocations to ensure the necessary implementation of the various projects and programmes, including social support services for victims

70. Different departments carry out the responsibility to eradicate violence against women and children. However, it is acknowledged that at present only two departments, DOJ&CD and SAPS, are able to quantify their spending (R106 855 823/ R40 604 988.58 respectively during 2013/14) while implementation runs across government.²¹ As government gets to a better understanding of the need to quantify services provided; future reports will carry better information related to expenditures and allocations across all departments over a period of time.

Causes, scope and extent of all forms of violence against women

71. The Inter-Ministerial Committee on the Root Causes of Violence Against Women and Children was established by the Cabinet in May 2012 to develop a comprehensive strategy to deal with this scourge. It comprises of the Ministers of Social Development, Women, Justice and Constitutional Development, Health, Home Affairs, Police and Basic Education. The findings of the research report have led to the development of the South African Integrated Programme of Action Addressing VAWC (2013–2018) already discussed above.

Awareness raising and education programme on violence against women and girls

72. Awareness raising and public education measures in place covering different areas that include violence against women, older persons, violence in schools, trafficking in persons among others except for health related public awareness will be included in this part of the report only.

73. Government runs public awareness campaigns through the media, booklets, pamphlets, Izimbizo (Community gatherings), all aimed at sensitising citizens on government services, legislation, women’s empowerment and promotion of gender equality, violations of cultural and traditional practices and its consequences, human trafficking to mention a few. All stakeholders across the sectors have a role to play in conducting public education campaigns in line with their mandate.

74. Educational materials are also printed in Braille including booklets and the braille version of the Constitution of South Africa. In November 2013, forms prescribed by Regulations for the Domestic Violence Act have been translated into all 11 official languages, and distributed to all lower courts in the country and in November 2014 a round-table discussion on “Equal Access to Justice for Persons with Disabilities” was held.

75. A draft manual called “No More Violence” aimed at teaching the role-players at service points as well as victims on how to manage and improve the alleviation of domestic violence matters and the impact of such crimes on their lives, has been developed. In December 2014, Government launched a public educational DVD titled: “Court-based Support for Victims of Domestic Violence” for all the courts across the country.

76. A Domestic Violence Register has been managed and monitored in all police stations, to register all incidents (whether a docket has been opened or not) and cases

²¹ “Financial year estimates for spending on gender-based violence” by the South African Government [Feb 2014, Jen Thorpe].

reported on domestic violence. The victim is provided with information on the rights and options available as well as contact details of support service providers in the area.

77. During 2012/2013,²² Imbizos were held in Limpopo and Eastern Cape provinces with a focus on the Domestic Violence recourse measures available. South Africa launched the annual Victims' Rights Week in September 2010 to sensitise communities on the rights of victims, this is an annual programme.

78. In line with commemoration of International Men's Day as observed on 19 November, the Deputy President, who holds the position of the patron of the National Men's Forum, leads men's organisations to raise awareness on violence against women and children as well as prevention of economic abuse of children.

79. The following public education interventions were conducted by Government during 2012/13: (i) Stop Teenage Pregnancy Campaign: Reached 274 schools and 60 367 teenage learners; (ii) School for the Blind to launch the Braille FAQ's on the Children's Act, and reached 250 blind learners; (iii) Door-to-Door Educational Campaign on gender-based violence and Trafficking in Persons, which reached 80 Communities; (iv) Media Outreach: 11 radio and TV interviews conducted on violence against women; (v) Public Exhibitions: Held 9 and reached about 31 968 people; and (vi) Public Service Fairs: Held 8 and reached about 12 803 people.

80. During October–November 2014, the National Maintenance Campaign was implemented by Government,²³ using radio and TV advertisements; fathers were called upon to take pride in supporting their children. The public message/pay-off line for the campaign was: "My child's future is my priority. I Pay Maintenance". In 2013/14,²⁴ four national public education and awareness raising events to educate members of the public about the Maintenance Act and the services offered at courts were carried out at the provincial level.

81. Additionally in 2014/2015, Government conducted the following public education interventions: (i) Radio Public Education talk show in 7 languages: reached 33 337 000 listeners; (b) Television Public Education Talk Shows/Actuality in four languages; (c) National Register for Sex Offender Media Campaign Talk Show in 4 languages: reached 23 390 000 people; (d) Sexual Violence and Child Justice Act in school in an actuality show conducted in four languages: reached 10 438 000 viewers; (e) Print Media Campaign on the National Register for Sex Offenders in English: reached 15 465 000 people; (f) LGBTI Television and Radio advert by the Minister of Justice and Correctional Services which has reached 23 000 000 viewers and 118 000 000 listeners ; (g) *Imbizos* and Door-to-Door Campaign were conducted in 9 provinces [Rural & Semi-Urban Communities] in all 11 official languages and reached 34 603; (h) Schools Campaign against Rape, Cyber-Bullying, Sexting and related gender based violence crime was conducted in all 9 provinces in 122 schools and reached 30 194 learners; (i) Public Education for Older Persons was conducted in 4 Provinces [7 interventions] in 6 languages and reached 2,850 old people; (j) *Ndabezitha* Programme with Traditional Leaders conducted in 3 interventions and reached 896 traditional leaders and their council and Public Education on *Ukuthwala* Custom in 2 Provinces [3 Interventions] and have reached 520 people.²⁵

²² National Prosecuting Authority.

²³ Department of Justice and Constitutional Development input: January 2015.

²⁴ *Ibid.*

²⁵ DOJ&CD: Report on the implementation of Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007:01 April 2014 to 31 March 2015.

Measures in place to support victims of violence against women

82. By 2009, at least 6 of the 9 provinces had One-Stop Service Centres and 109 shelters that provide accommodation and render psychosocial services to the victims in accordance with the Minimum Standards for Shelters for Abused Women. During 2011, 13 of these shelters were strengthened to host victims of human trafficking with trained personnel and a further 22 shelters were identified. The shelters provide nine-week rehabilitation programmes to address the psycho-social well-being of trafficked victims. However, more still needs to be done to improve the quality, care and services at these centres such as accessibility to people in rural areas.

83. There is a National Command Centre on Gender Based Violence where victims of gender based violence receive face to face counselling by trained social workers and the police support.

Measures to support officials

84. South Africa has measures in place to capacitate officials handling both the victim and the perpetrator of violence in the form of training and workshops. The table below indicates training of prosecutors conducted by the National Prosecuting Authority from 2010/2011–2013/2014.

<i>Type of training</i>	<i>2010/2011</i>	<i>2012/2014</i>	<i>2013/14</i> ²⁶
Sexual offences	–	40	158
Maintenance	180	24	50
Child justice	349	54	185
Domestic violence	102	35	54
Trafficking in persons	79	–	193

85. The International Organization for Migration (IOM) is responsible for capacity building for government officials with skills that are necessary to identify adequately and respond to incidences of domestic and international trafficking in persons. The capacity building is the activity in the “Tsireledzani programme”,²⁷ which means “Let us protect each other”, implemented from 2007. The IOM compiled a ‘Handbook on Counter-Trafficking for South African Government and Civil Society’ to guide the training.

86. Government provides annual training interventions on legislation promoting the rights of women and children. In 2012/13:²⁸ (i) 330 regional and district magistrates were taken through the Trauma Debriefing Programme; (ii) 111 prosecutors were trained on the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007; (iii) 74 clerks of the court were trained on the sexual offences legislation and HIV; (iv) 450 Frontline Officials drawn from key government departments and Legal Aid SA were trained on Sexual Offences, Victims Charter and Victim Empowerment Framework; (v) 45 Registrars, Clerks of the Court, IT Coordinators and Administrative Officers were trained on the Integrated Case Management System for the National Register for Sex Offenders; (vi) 258 officials participated in the Intersectoral Training on Sexual Offences; (vii) 342 Intermediaries were trained on

²⁶ National Prosecuting Authority input: January 2015.

²⁷ This Programme, initiated by the National Prosecuting Authority, was funded by the European Union and started in 2007. It ran until the end of 2011 after which the South African government continued the anti-trafficking efforts with its partners: Input from the National Prosecuting Authority, January 2015.

²⁸ Department of Justice and Constitutional Development input: 2015.

Information Management on Cases of Sexual Offences involving child victims and persons with mental disabilities.

87. In 2013/14:²⁹ (i) 688 officials were trained on the National Register of Sex Offenders; (ii) 544 on sexual offences and related forms of abuse; (iii) 180 frontline officials trained on Victims Charter, Victim Empowerment, and sexual offences legislation so as to minimise the incidence of secondary victimisation from the justice system; (iv) during the same period, 68 intermediaries were taken through the Trauma Debriefing Programme to reduce the vicarious trauma they often experience from dealing with child-victims of sexual violence.

88. From 1 January to 31 March 2014, there were 4 422³⁰ members trained in the Victim Empowerment Programme and related courses such as domestic violence and sexual offences.

89. 1 117 police officers, emergency police service personnel, detectives, and community service centre personnel received training on handling sexual offences during 2010/2011.

90. Government conducted Trauma Debriefing Sessions which covers emotional impact, coping skills, and self-help physical exercises for intermediaries and court interpreters to minimise and eliminate the vicarious trauma that is often suffered from dealing with cases of sexual offences on daily basis. During the period 01 April 2014 to 31 March 2015 7 Trauma Debriefing Sessions were held in 7 Provinces, where 250 court personnel participated.

91. Stress Management Workshops for magistrates presiding over sexual offences cases were conducted by the SAJEI, accountable for all training intervention held for members of the judiciary. 130 magistrates were assisted through this programme.

Article 6

Trafficking in women and exploitation of prostitution and response to General Recommendation 19

92. The Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013) was promulgated in 2013. The Act is a single statute that tackles human trafficking holistically and comprehensively by providing a maximum penalty of R100-million or life imprisonment or both in the case of a conviction. The legislation fulfils the objectives to: (i) provide for an offence of trafficking in persons and other offences associated with trafficking in persons; (ii) to prevent and combat the trafficking in persons within or across the borders of the Republic; (iii) to provide for measures to protect and assist victims of trafficking in persons; (iv) to provide for the establishment of the Intersectoral Committee on Prevention and Combating of Trafficking in Persons; and (v) the criminalisation of practices resulting in forced and early marriages and harmful cultural and traditional practices such as *Ukuthwala*. The Act also gives effect to the domestication of the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons.

93. This legislation has to date not yet been implemented and government is putting in place all measures to have this legislation implemented. The country continues to use the range of legislation reported in the previous report to prosecute perpetrators related to trafficking in women.

²⁹ Ibid.

³⁰ JCPS Development Committee input: January 2015.

94. During 2013/2014 financial year, there were 22 cases of human trafficking opened, with one case for labour exploitation and the rest related to human trafficking for sexual exploitation. Of these 22 cases, six (6) are withdrawn; seven (7) under investigation with arrests still to be made while nine (9) are in the court system. Furthermore fifty five (55) victims were rescued and of these victims, 43 were South Africans and the others from China, Thailand, Nigeria and Mozambique.³¹ The cases of trafficking in persons were reported in the National Prosecuting Authority Report of January 2015.³²

Adult Prostitution/Sex work

95. Adult prostitution³³ is a highly contested issue in which societal opinions are often highly polarised. In this regard, the perspective ranges from the constitutional protection of human rights and human dignity and safety of the person enforcing particular moral or religious values, there are therefore no new measures in place to be reported.

96. South Africa is in the process of looking at whether or not sex work should be decriminalised. In this regard the South African Law Reform Commission (SALRC) produced a comprehensive Discussion Paper in 2009 entitled “Project 107: Sexual Offences – Adult Prostitution”. In its Discussion Paper the SALRC found that adult prostitution has been the subject of considerable public debate in South Africa. The topic remains an emotive one. In South Africa the socio-economic determinants of prostitution suggest that prostitution is driven by a complex intersection of social and economic factors in which poverty and inequality are key drivers.

97. The South African National Aids Council (SANAC) ensures the health of sex workers and their clients through the implementation of the South African National Strategic Plan (NSP) on HIV, STIs and TB 2012–2016 which makes it clear that sex workers need a comprehensive response. SANAC raises the importance of providing HIV prevention, care and treatment to key populations, including sex workers. Other areas covered by the NSP includes access to justice, addressing violence and harassment often meted out to them, and the culture of substance abuse amongst sex

³¹ Annual Report 2013/2014 of the HAWKS: Directorate for Priority Crime Investigations.

³² Trafficking in Persons (TiP) Cases finalised with convictions:

S v Ronel Eloff and Antoinette Godfrey – both accused convicted and sentenced in 2009 for trafficking for sexual exploitation (Welkom Free State Province);

S v Nokuzola Ntonga and Lionel Bell – a conviction for TiP (sexual exploitation) was confirmed on appeal by the Grahamstown High Court on 22 August 2013. (Eastern Cape Province);

S v Aldina Dos Santos – sentenced to life imprisonment for TiP for sexual exploitation of children in 2011. Accused was a Mozambican female (Gauteng Province);

S v Jezile – sentenced to 20 years in January 2014 for TiP for sexually exploiting a child. (Western Cape Province);

S v Nahima Allima – sentenced to life imprisonment for TiP for sexual exploitation in June 2014. (Nongoma KwaZulu – Natal Province);

S v Foster Simelane – sentenced to 30 years for TiP for sexual exploitation of a child in August 2014. (Potchefstroom North West Province);

S v Gwambe – sentenced to 15 years in 2013 for TiP for sexual exploitation of children. Accused is a Mozambican female (Mpumalanga Province);

S v Vukile Shembe – sentenced to 23 years imprisonment in 2012 for TiP for sexual exploitation. (Western Cape Province).

³³ Prostitution and sex work are, strictly speaking, not the same concept. Prostitution is viewed as coerced sex work where women have no choice in the matter and is necessarily demeaning and women are victims. Sex work, on the other hand, allows for women’s decision making power in capitalist thinking on issues of prostitution. (Commission for Gender Equality, “Decriminalising Sex Work in South Africa”, 2013).

workers thereby smoothing the way for sex worker access to health services – particularly STI treatment, HIV testing and ART provision.

Part II

Articles 7–9

Article 7

Political and public life

98. No new policy has been in place since the last reporting period. The governing party continues to implement its 50/50 gender representation policy while government implements the “Head of Department’s 8 Principle Action Plan for Promoting Women’s Empowerment and Gender Equality within the Public Service Workplace”. Considerable progress has been noted in the participation of women in various sectors such as political, public service and the judiciary.

99. The 20 Year Review released in 2014 confirms that South Africa is a much better place to live in now than it was in 1994, and highlights the remarkable progress made since the dawn of democracy. Evidence in political, social and economic sectors of the society shows that we have made and continue to make progress in ensuring that voices of women can be heard through the creation of various structures and the provision of opportunities.

100. Women continue with their keen interest in political participation and increased the percentage of registration as voters from 55% in 2009 to 56% in 2014 while they further constitute the highest number of voters at 54.9% in 2009 and 2014 compared to 45.1% of men.

101. Since the last reporting period and the General Election in 2014, strides have been made in the representation of women in decision making. Both the Speaker and the Chairperson in the two Houses of Parliament are women. Although there has been a decline in the percentage of women representation in the National Assembly from 43.3% in 2009 to 41% in 2014, there has also been an increase in the representation of women in the National Council of Provinces from 32.08% in 2009 to 35.84% in 2014.

102. Within the twenty years of democracy, women Ministers have held important portfolios previously held by men. Among these are Basic Education, Small Business Development, Intelligence, Defence, Environmental Affairs, Water Affairs and Sanitation, Home Affairs, International Relations and Cooperation, Correctional Services, Transport; Labour, Energy, Science and Technology, Mineral Resources, Social Development and Women’s Agenda. Under the stewardship of the Minister for Science and Technology, who is a woman, South Africa has won the bid for the Square Kilometre Array (SKA) project.

103. The representation of women in Cabinet level following the 2014 general election stands at approximately 42.85% while it was 43% and 41% in 2004 and 2009 respectively. The representation of women Deputy Ministers rose to 48.6% in 2014.³⁴

104. Diplomatic appointments of women have increased. In 2008, women accounted for 26% of appointed Ambassadors, High Commissioners and Consul-Generals, increasing to 29.13% in August 2012 and to 29.3% in 2013.

³⁴ Millennium Development Goal: Country Report 2015: The South Africa I Know, the Home I understand.

105. There are 40.6% representations of women in senior management in the public service as at June 2015 with an average annual increase of approximately 1% point since 2009 when representation stood at 34.8%.³⁵ Government has continued with its 2% policy on the representation of people with disability in public sector. Within the 2% target, 41.1% are women and 58.9% were men in 2012/13.

106. There has been a remarkable increase in the percentage of women judges, in 2011–2013 from 28%, 28.7%, 32% and 33.6% in 2011, 2012, 2013 and 2014 respectively. As at October 2014, there are approximately 40% women magistrates in South Africa, with most of them located as Regional Court Presidents (i.e. 50%). Overall women magistrates exceed the 30% mark in all categories of the Magistracy.

107. The representation of women in decision-making positions in corporate boards and as Chairpersons of Boards or CEOs of corporate companies listed in Johannesburg Stock Exchange in South Africa is indicated in the table below.³⁶

<i>Representation of Women in Corporate Positions</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Chief Executive Officers/Managing Directors	3.9%	3.6%	4.5%	4.4%	3.6
Chairpersons	3.9%	5.8%	6.0%	5.3%	5.5
Directorships	14.3%	14.6%	16.6%	15.8%	17.1
Executive Managers	25.3%	18.6%	19.3%	21.6%	21.4

108. Women are making inroads into business leadership and heading up global giants in the country. Women own conglomerates in the country with some business women being millionaires. Women are also entering and leading in previously male dominated territories. For example, the head of the Palaeontology Department in the University of Cape Town, the head of the ABSA bank. South African Airways now has women pilots, some flying internationally bound flights.

109. A “board-ready women” database was launched in South Africa in 2014, in partnership between the Business and Professional Women South Africa and Government, through the Department of Trade and Industry (the dti). It is the first database of its kind in South Africa of trained senior businesswomen – from which both the public and private sector can access potential non-executive board members.

Article 8

International Representation and Participation

110. South Africa has seen a number of women taking up leadership positions at the international level. They include Dr. Nkosazana Dlamini-Zuma, the first woman in Africa to chair the African Union Commission; Dr. Phumzile Mlambo-Ngcuka, former Deputy President of the country, as the Under-Secretary-General and Executive Director of UN-Women; and the positioning of other South African women such as Ms. Geraldine Frazer-Moleketi, Special Gender Envoy to the African Development Bank; Ms. Rashida Manjoo, Special Rapporteur on Violence against women, its causes and consequences; and Judge Navi Pillay as the former High Commissioner for Human Rights and formerly as a judge in the International Criminal Court (ICC). This is an indication of the impact that women in decision-making have in winning the trust and confidence of citizens in South Africa, on the continent and internationally.

³⁵ DPSA: PERSAL.

³⁶ South African Women in Leadership Census 2009 by the Businesswomen’s Association (BWA).

Article 9 Nationality

111. The establishment of the National Population Register marked a significant milestone in 2010, ensuring that the right of the child to be registered would be achieved. South Africa is already very close to universal birth registration, with an estimated 92 per cent of all children under five having their birth registered with the state.³⁷ The legislative requirement is that newborn babies must be registered within 30 days after birth. The number of newborns registered has increased by 11.2% from 500 524 in 2010/11 to 556 762 in 2011/12.

Part III Articles 10–14

Article 10 Education

112. Government has embarked on several strategies to promote school safety as well as enhance the implementation of the Guidelines for the Prevention and Management of Sexual Violence and Harassment. The Guidelines were distributed to all schools and serve to enhance measures to create a safe and caring school environment free from all forms of sexual harassment and violence, as well as to assist public schools in maintaining the minimum standard procedures for addressing allegations of sexual violence in schools (DBE, 2010c).

113. South Africa is deeply concerned about the indication made in the report by the Committee which states in the Concluding Observation that “prostitution, exploitative sex and rape are perpetrated in connection with a child’s access to education”. In order to be able to identify the exact areas and to address them, South Africa requests the source of the report.

114. The previous report has already indicated that parity has been achieved and the status remains for all levels of education.³⁸

115. Since May 2009, the function of national education was administered by two departments, namely the Department of Basic Education (DBE) and the Department of Higher Education and Training (DHET). The DBE is responsible for the school system, from reception year to grade 12 and Adult Basic Education and Training qualification, while the DHET is responsible for the higher education system, further education and training institutions, national skills authority, sector education and training, trade testing centres and skills development institutions.

116. The Ministerial Committee was established to review the National Curriculum Statement (NCS) in 2009 to address curriculum gaps that were apparent in the outcomes-based curriculum and had proved difficult to implement. The Curriculum and Assessment Policy Statement (CAPS) was introduced between 2011 and 2014 to streamline and clarify the curriculum policy.

117. Government is providing learners with easy to-use workbooks in all 11 official languages translating to the provision of nationally standardised, high-quality learning for Grades R to 9 since 2012. Workbooks assist in teaching and monitoring

³⁷ South African Integrated Programme of Action addressing Violence Against Women & Children (2013–2018).

³⁸ Statistics South Africa (Stats SA), General Household Survey (GHS), 2002–2013, DBE own calculations.

the tasks that learners are required to do. However they do not replace textbooks and other resources, but serve as additional resources.

118. The National School Nutrition Programme aims to promote better quality education for the poorest learners by providing a daily meal to learners benefiting from the programme. In the 2010–2011 financial year, a total of 8 281 927 learners in 20 815 schools were reached: 6 536 744 learners in 17 315 primary schools and 1 745 183 learners in 3 500 secondary schools. Since 2008, the budget of the programme has progressively extended to include poor learners in secondary schools and in 2013, it provided meals to over 8 million learners in over 20 000 schools.

119. The Talent Development Strategy supports youth into Science and Mathematics Olympiads and competitions for learners. The programme reserves 60% of the participants for female learners who are in grade 10–12. Between 2011 and 2013, 70% of the participants in the Programme were girls.

120. Older females aged 16 to 18 years are more likely to be out of school than males were. In 2013 15% of females were not attending school compared to almost 13% of males in the same age group. The 15% of females decreased from approximately 21% in 2002 while the percentage of males remained stable at an average of 14% between 2002 and 2013.³⁹

121. Achievement in the National Senior Certificate (NSC) in 2014 by gender, when comparing the overall performance of candidates, indicate that a higher percentage (77.5%) of males compared to females (74.4%) passed the NSC examination in 2014. This might be related to care work in which girls still engage. The performance of learners by gender in Mathematics and Physical Sciences between 2010 and 2014 in the NSC indicated that male learners are performing better than females in both subjects.

122. South Africa has nearly achieved universal functional literacy for youth aged 15 to 24 with an overall literacy rate of 91% in 2011. Literacy rates were higher for female youth than male youth for the period 2002 to 2011. This contrasts with the adult literacy rate where fewer women were literate than men indicating the gender based generational shift that took place during the past 20 years in relation to literacy. The youth literacy rate for females increased from 88.4% in 2002 to 94.6% in 2011 and for males from 83.3% in 2002 to 90.7% in 2011.⁴⁰

123. The Kha Ri Gude (Let us Learn) Mass Literacy Campaign is regarded as one of the important ways in which the developmental state prioritises the needs of the poor and addresses the right of all citizens to basic education in the official language of their choice. The campaign is intended to provide 4.7 million South Africans with the opportunity to become literate. The campaign targets vulnerable groups, including the deaf and the blind. Currently, 80% of the learners are women, of which 8% are disabled, 25% are youths and 20% are over the age of 60. The programme increased the literacy rate across all population groups from 79% in 2009 to approximately 82% in 2012.

124. With regard to employment of educators, there were more female teachers in the basic education system between 2009 and 2013 at 68% as opposed to 32 % males; however, the majority of women occupy lower level posts, with more men at the management level. Studies (Chisholm, 2001; Diko, 2007; Nkomo & Ngambi, 2009)) indicate a reluctance by women to enter management as they view it as masculine and unsupportive of their other roles as mothers and partners.

³⁹ General Household survey 2013.

⁴⁰ Department of Basic Education General House Hold Survey (GHS) 2011 Focus on Schooling.

125. The Accelerated Schools Infrastructure Delivery Initiative is aimed at achieving a level of optimum functionality in targeted schools over the period of five years. The focus for the 2010–2014 strategic planning period include schools without water, sanitation, electricity and/or fencing; schools that constitute a danger to learners and educators from a construction perspective and overcrowded schools.

126. The country's Strategic Plan for Higher Education and Training 2010–2015 highlights the importance of tertiary education in relation to Government's development agenda. Over the ten year period 2001 to 2011, females made more gain than males as they improved their participation rate by 7% from 15% to 22%, when compared to the 3% gain observed for males. More females (8.7%) had higher education as compared to males (7.9%).⁴¹

127. In 2011 women have significantly shifted towards business, commerce or management science (26.1%) and away from education, training and related fields (19.8 %), which was formerly the dominant field. Women, especially black women, were under represented in science, engineering and technology, as well as in business and commerce programmes – the critical areas needed in the country. Black Women, especially African women are still underrepresented in postgraduate studies which are dominated by white males.

128. The National Research and Development Strategy and the 2008 Ten Year Innovation Plan transformed the Science and Technology workforce which resulted in an equitable representation of women and blacks in science and technology in particular. Following the implementation of these strategies, women enrolment in higher education has increased from 48% in 1996 to 58% in 2012, with the proportion of women enrolled in honours programmes from 44% to 49% and in doctoral programmes from 38% to 44%. The 2011 Africa Innovation Outlook report indicates that Tanzania and South Africa are leaders in terms of participation of women in research and development with women accounting for 40% of all researchers in Tanzania and 43% of all researchers in South Africa compared to an OECD average of 34%.

129. The enrolment of women in science, engineering and technology fields increased from 43.8% in 2000 to 45% in 2012 and graduating women increased from 48.4% to 51% during this period. Guidelines on improving the distribution of bursaries and scholarship has set a target of 55% of post graduates support designated for women and this has shown an improvement from under 50% in 2011/2012 to 53% in 2013 – with women constituting 53% of all honours students, 49% of doctoral degrees and 45% of postdoctoral degrees.

130. The Thuthuka programme supports women and blacks who are emerging as researchers and this programme has to date awarded 1 058 research grants to 698 women and 594 black researchers.

Article 11 Employment

131. The Employment Equity Act, 1998 (Act No. 55 of 1998), has been amended by the Employment Equity Act, 2013 (Act No. 47 of 2013). The amendment has explicitly incorporated the concept of equal pay for work of equal value, into the unfair discrimination provisions and aligns the Act with the International Labor Organization prescripts. This stipulates that it is unfair for an employer, based on a prohibited ground, or analogous arbitrary ground, to have different terms and

⁴¹ Census 2011.

conditions of employment for employees doing the same work. Provision is now made in the Act for the Minister, after consultation with the Commission for Employment Equity, to issue regulations to prescribe the criteria and methodology for assessing work of equal value.⁴² Furthermore, all cases of sexual harassment can be arbitrated irrespective of earnings.

132. The labour force participation rate of males was higher than that for females in both 2001 and in 2014. Even though both sexes were participating at rates in 2014 lower than in 2001, the gap between male and female participation rates remained stable over the reference period. Nationally, the labour force participation rates of both males and females was higher in 2001 than in 2014. The participation rate of males decreased from 67.4% in 2001 to 63.6% in 2014. The participation rate of females was 54.9% in 2001 and declined to 51.0% in 2014. The study also indicated that levels of employment increased by 2.5 million and males reported the highest increase of about 1.7 million, while the number of employed females only increased by 826 000.

133. The percentage distribution of women aged 15–64 years employed by occupational category indicates that 6% of women are in the professional category as compared to 5.4% males but 6.1% females are in the managerial category as compared to 10.4% males, suggesting that men are more likely to be decision-makers in their jobs compared to women.⁴³

134. The Census 2011 report highlights that when education was assessed in relation to field of study, it was found that employed persons with a tertiary education were more likely to be qualified in the economic and management sciences. Gender differences were observed in relation to qualifications. Males were three times more likely (with a percentage share of 75.4%) to be qualified in physics/mathematics/engineering than females. On the other hand, females were more likely to be in possession of qualifications in the field of social studies/health sciences and arts/education/hospitality (approximately 66% and 68%, respectively).

135. With regard to earnings, females continued to dominate among those earning in the bottom range of earnings. However, the last 13 years saw noticeable shifts in male and female earnings, with the gender gap between males and females earning in the upper salary ranges (i.e. R7 501–R11 500 and R11 500+) narrowing considerably.

136. In South Africa it is estimated that around 38% of businesses are owned by women and that the use of preferential procurement policies created greater opportunities for women to access opportunities to public procurement spending. Women-owned businesses are still underrepresented in public procurement when compared to their male counterparts, and are unlikely to account for more than 25% of procurement spend. Over the 2011/12 financial year, the study undertaken by the Business Women's Association of South Africa indicates that women-owned businesses were recipients of R16.56 billion in government procurement spending out of a total of R183.3 billion in the research sample (which represents only 30% of total procurement spend in this year), thus accounting for only 9% of the total procurement spend in the sample studied.⁴⁴

137. The role of small, medium and micro enterprises (SMME) is vital to drive economic growth, employment, innovation and competitiveness. It is estimated that

⁴² Department of Labour, 2014: 14th Commission for Employment Equity – Annual Report 2013–2014.

⁴³ Gender Series Volume 1: Economic Empowerment 2001–2014.

⁴⁴ Wits Business School Journal, 2011 – as quoted in the research study by the Business Women's Association of South Africa (BWASA), 2013: "The Current Status of Policies, Practices, Measures and Barriers regarding Women-Owned Businesses in Government Procurement".

South Africa has some 5.9 million SMMEs which generate 40% of its gross domestic product and 60% of employment in the country. Women-owned enterprises are largely represented in SMMEs. Following the 2014 South African elections, His Excellency, President Jacob Zuma proclaimed the Department of Small Business Development to champion the support of small businesses.

138. The National Empowerment Fund Act (NEF), 1998 (Act No. 105 of 1998) established the NEF as a driver and a thought-leader in promoting and facilitating black economic participation through the provision of financial and non-financial support. Since operational inception of the NEF in 2004 to early 2015, 21% of the businesses funded by the NEF are owned and managed by black women. The NEF recently established the Women Empowerment Fund, whose ethos is “Fund a Woman is to Fund a Nation”, and through this initiative it is expected to increase the funding for women owned businesses to a minimum of 40% in the medium term.

139. In 2012, the various national small business finance agencies were consolidated into the Small Enterprise Financing Agency (sefa), which is housed in the Industrial Development Corporation (IDC). This was initiated after the adoption of the New Growth Path in 2010 which identified enterprise development as a key priority. Resultant policies aim to promote small business and entrepreneurship by improving access to and efficiency of government funding and making more resources available to SMMEs. sefa’s mandate is to foster the establishment, survival and growth of SMMEs and contribute towards poverty alleviation and job creation.

140. The Small Enterprise Development Agency (seda) is an agency established in December 2004, through the National Small Business Amendment Act, 2004 (Act No. 29 of 2004) with the mandate to implement National Government’s Small Business Strategy and integrate all government funded small enterprise support agencies across all tiers of government. [S]eda’s mission is to develop, support and promote small enterprises.

Article 12

Equality in Access to Health Care

141. The majority of South African women still rely heavily on health services that are provided by the State. This is evidenced by the low percentage of private medical scheme coverage and the numbers that are using private health facilities. Overall South African women are less likely (38.8%) to visit private health facilities when they need health care than men (39.9%) and only 32.3% of African women and men use private health facilities. Access to private medical scheme coverage is lowest at 9.3% for black African women compared to 70.7% for white women, 9.1% for black African men and 70.5% for white men. Therefore, increasing access to public health care will benefit the majority of Black African women to a large extent.⁴⁵

142. Women living in rural areas struggle to gain physical access to hospitals or clinics and adequate information on the healthcare options open to them. The State rolled out mobile clinics and extensive information campaigns to visit the larger rural areas in an attempt to address this challenge.

143. There has been a demonstrable increase in women’s access to reproductive health care services resulting in a reduction in illness and death amongst women. For example, the percentage of women in South Africa whose live birth occurred in a health facility increased from 76.6 % in 2001 to 94.1 % in 2009.

⁴⁵ Gender Statistics in South Africa (2011) by STASSA.

Implementation of the Maternal Child and Women's Health Strategy (2009–2014)

144. The implementation of the Maternal Child and Women's Health Strategy (2009–2014) has scaled up and a total of 72% of primary health care facilities providing basic antenatal care was reached. 96.9 % pregnant women agreed to be tested for HIV. A total of 81% maternity facilities conducted monthly maternal and perinatal morbidity and mortality meetings. Health workers were trained in emergency and comprehensive obstetric care to improve their skills in intravenous fluid line, manual removal of placenta and provision of parenteral analgesia during labour, blood transfusion, perform caesarean sections in case of emergency and surgical intervention in cases of post-partum haemorrhage.

145. The country continues with No fee services for family planning and contraception services, ante natal, post natal and delivery services, cervical cancer screening, termination of pregnancy and care for survivors of sexual assault and rape.

146. The human papilloma virus (HPV) is a major cause of cervical cancer (CA) and is responsible for the deaths of over 3 000 women in South Africa every year. The launch of the HPV vaccine campaign in March 2014 is a major step towards protecting women against CA. The campaign targets girl-children aged between 9 and 12 years old and aims to vaccinate an estimated 500 000 girls in 17 000 schools. 2 000 trained vaccination teams visited 90% schools and over 87% of Grade 4 girls were immunised. Planning forward each year, new Grade 4s will be immunised to prevent CA for women in the future.

Measures to address the impact of HIV/AIDS on women and girls

147. The approach to deal with HIV and AIDS for women and children is a multipronged strategy comprising of prevention, treatment and support. The prevention component focuses on advocacy and social mobilisation, training of peer educators, provision of male and female condoms and correct treatment of sexually transmitted infections. The treatment component focuses on managing opportunistic infection through Cotrimoxazole and INH prophylaxis, providing anti-retroviral treatments and treating Tuberculosis (TB) as part of co-infection with HIV while care and support component focuses on providing nutrition for people living with HIV and AIDS, providing Home Based Care, providing Step Down Care to minimise the cost of admitting patients at higher level institutions.

148. South Africa provided stipends to 42 756 community care givers, supporting people living with AIDS and its debilitating conditions. Additional intervention for the Care and Support Component was the availability of 97 Step-Down Care Facilities in South Africa and the facilities contributed to improving quality of care to sub-acute patients.

149. The National Strategic Plan on HIV and AIDS, Sexually Transmitted Infections (STIs) and Tuberculosis (TB) for 2007–2011 was developed, reviewed and updated for 2012–2016 by SANAC in consultation with a range of stakeholders to prevent and mitigate the impact of HIV, AIDS and TB. This strategy is being implemented.

150. The Campaign on Accelerated Reduction of Maternal and Child Mortality (CARMMA) has contributed to the reduction of deaths of mothers and infants. CARMMA focuses on promoting sexual and reproductive health services; antenatal care; access to skilled birth attendants; allocating dedicated obstetric ambulances and establishing maternity homes; strengthening human resources for maternal and child care; intensifying management of HIV positive mothers and children; promoting child survival through supporting exclusive breast-feeding, and the provision of lactating mothers facilities in hospitals and promoting kangaroo mother care.

151. From 2002–2009, South Africa experienced a significant increase in maternal deaths, with the MMR estimated at 134 per 100 000 in 2002 and 311 per 100 000 in 2009. But by 2010 the maternal mortality rate had declined significantly to 270 per 100 000 and this decline has been sustained. In 2013, the maternal mortality rate was at 141 per 100 000.⁴⁶

Access to reproductive rights and contraceptives

152. The ability of women to control their own fertility is fundamental to women’s empowerment and equality issue as it include the right to decide on the number, timing and spacing of children, and to make decisions regarding reproduction free of discrimination, without coercion and violence, contribute to gender equality and empowerment. All public sector health facilities are providing family planning services with a varying mix of contraceptives. A protection rate of 37.8% was recorded, marginally exceeding the 35% national target set for 2012/13.

153. During the financial year 2012/13 the updated National Contraception and Fertility Planning Policy and Service Delivery Guidelines was approved by the National Health Council aimed at reprioritising contraception and fertility planning, with an emphasis on dual protection. Furthermore the Contraceptive Policy and Clinical Guidelines were developed to expand the choice of contraceptive methods and improve access to contraception and family planning for women. In February 2014, the country launched the National Family Planning Campaign under the theme “My Responsibility, My Choice, Our Future – I choose dual protection”. The aim of the Campaign is to provide information and services about various methods that prevent HIV, STI’s and unwanted pregnancies. The campaign encourages the use of a combination of condoms and a second method of protection.

154. During the Campaign, a new Sub-Dermal Contraceptive Device, which is a long acting progesterone-contraceptive method that is inserted under the skin in the upper arm was also launched providing protection from pregnancy for up to 3–5 years.

155. The Choice on Termination of Pregnancy Act, 1996 was amended in 2008 through the Choice on Termination of Pregnancy Amendment Act, 2008⁴⁷ to, amongst other things, empower a Provincial Member of the Executive Council to approve facilities where a termination of pregnancy may take place. A total of 77 771 legal terminations of pregnancy were performed in South Africa in 2011, which indicated a 31% increase since 2010. In 2010, 59 447 terminations were carried out.

Measures to broaden and strengthen Prevention of Mother to Child Transmission (PMTCT) services

156. In April 2010, South Africa launched the Presidential National HIV Counselling and Testing Campaign which was aimed at testing 15 million people by June 2011. As at mid-2011, 15.1 million people had been tested and an additional 4.8 million people have since been tested. On average, close to 10 million people are testing for HIV every year. Based on this Presidential mandate, there has been a collaborative effort with partners to ensure implementation of the HIV Counselling and Testing campaign for pregnant women and expanded treatment care and support.

157. Progress has been recorded in scaling up Prevention of Mother to Child Transmission (PMTCT) of HIV from 71% in 2009 to 99% in 2013, resulting in reduction in mother to child transmission from 8% in 2008 to 2.0% in 2013.⁴⁸ This

⁴⁶ Millennium Development Goal. Country Report 2015. The South Africa I know, the Home I understand.

⁴⁷ Act No. 1 of 2008.

⁴⁸ Inputs from Department of Health, South Africa: November 2014.

resulted in 97% reduction in mother-to-child transmission of HIV. The PMTCT had managed to attain a total of 79.4% eligible HIV positive pregnant women placed on Highly Active Anti-Retroviral Therapy.

158. The initiation of ARTs for all pregnant women living with HIV with a CD4 count of less than 350, and provision of treatment to all other pregnant women living with AIDS at 14 weeks of pregnancy has positively impacted in reducing maternal and child mortality rates. At present, the guideline for prevention of mother-to-child transmission, paediatric and adult treatment was revised due to changes in the eligibility criteria of ART where all pregnant women irrespective of CD4 cell count are initiated on lifelong ART.

159. In 2014, of the total number of patients receiving ARTs (47 500), women comprised 25 600 while in 2011, of the total figure of 1 793 000 patients, women comprised 1 090 000 of those receiving ARVs. In April 2013, South Africa rolled out fixed-dose combination antiretroviral medication, which is one tablet instead of three pills a day, reducing the risk of patients defaulting from treatment. The fixed-dose combination ARV is given to newly diagnosed HIV-positive people, including HIV-positive pregnant women and breast-feeding mothers. The fixed-dose combination helps to reduce the pill burden as it is easy to take; highly effective and in no way inferior to taking three individual drugs.

The intersection between violence against women and HIV/AIDS

160. South Africa developed a National Strategic Plan on HIV, STIs and TB 2012–2016 which consists of five goals. The goals that relate to violence against women are (i) ensuring an enabling and accessible legal framework that protects and promotes human rights and (ii) reduce self-reported stigma related to HIV and TB by at least 50%.

161. The key strategic objectives of the National Strategic Plan include: (a) addressing social and structural barriers that increase vulnerability to HIV, STI and TB infection; (b) preventing new HIV, TB and STI infections; and (c) increasing the protection of human rights and improving access to justice. The country has prioritised these services for the sex workers.

Awareness-raising campaigns on prevention, protection and maintenance of confidentiality in order to systemise and integrate approaches for multiple government sectors

162. Programmes to reduce barriers faced by women in accessing HIV/AIDS services are in place such as eliminating user fees, addressing stigma and discrimination in health care setting. Post-Exposure Prophylaxis (PEP) interventions continue to be provided to victims of sexual violence.

163. The Sonke Gender Justice Network's Community Education and Mobilisation (CEM) unit works closely with men and women from all walks of life and in many different communities across all of South Africa's nine provinces to address gender inequality, gender-based violence and the spread and impact of HIV and AIDS. The campaigns aim to inspire community activism and encourage community members to form community action teams (CATs). Measures used include participatory workshops, digital stories, photo-voice, ambush theatre, street soccer, murals and community radio.

164. Other measures implemented to raise awareness include: (a) The One Man Can Campaign which encourages men (aged 15–30) to become actively involved in advocating for gender equality, preventing gender-based violence and responding to HIV and AIDS; (b) The Brothers for Life Campaign which engages men (aged 30–

50) in order to address the risks associated with having multiple and concurrent sexual partnerships, men's limited involvement in fatherhood, lack of knowledge of HIV status by many, and insufficient health seeking behaviours in general; (c) Women in Partnership Against Aids (WIPAA) and Men in Partnership Against Aids (MIPAA); (d) Programmes targeting the High Transmissions Areas (HTAs) such as the Commercial Sex Workers. In this programme, peer educators address and educate women about prevention of HIV & other STIs, use of condoms (both male & female), sexual and reproductive health and distribution of condoms; (e) HIV prevention programmes for young girls (15–24 yrs) where they are taught health education and skills to protect them from contracting HIV; (f) LoveLife, funded by the National Department of Health assist with prevention of HIV transmission amongst the youth; (g) Ground breakers programmes targeted at young girls where they are taught on sexual and reproductive health, the Youth festivals and First-Things-First at universities and higher education institutions on prevention of HIV and access to Anti retro viral treatment for HIV infected learners; and (h) the Khomanani Campaign outreach programme which provides information and educational programmes that have extended their prevention focus to school leavers and young adults implemented through well trained volunteers, who interact face-to-face with residents.

165. First-Things-First Campaign was launched at the Mangosuthu University of Technology on 7 March 2013. This Campaign targets students in universities by making Life Orientation a compulsory first year subject in Universities and Further Education and Training Colleges where students are introduced to HIV and AIDS, health and reproductive rights issues.

Article 13

Economic and Social life

166. The economic and social life of women has been elaborated in article 11 of this report where measures that are in place to support women in business have been stated and cannot be repeated.

167. South Africa has seen women participating in sporting activities such as soccer, boxing, netball, rugby and athletics, to mention a few. In this regard, during 2013/2014, the Andrew Mlangeni green jacket evening was held to recognise men and women who have excelled in sport either as players or officials. Women in Boxing also receive government support and focus and a strategic plan is in place to assist in elevating the status of participation.

Article 14

Special measures for rural women

Participation of women in rural development

168. The Green Paper on Land Reform 2011 is a strategic policy document that intends to bring changes in the implementation of Land Reform and overhaul the rural communities into vibrant, equitable and sustainable rural communities. This strategy has been approved by Cabinet and is being implemented.

169. During the fiscal year 2009–2010, a total of 5 681 females were beneficiaries of the redistribution and land tenure reform programme. This amounted to women benefiting from a total of 150,925.16 hectares of land, worth approximately R1.1 billion. In terms of the land restitution programme, of the 9 294 house-holds making up 48 233 beneficiaries that benefited from the programme, 4 177 were female headed house-holds. Figures for the shorter period April 2010 to January 2011

indicate that out of 8 658 house-holds with successful claims, 4 412 (51%) were female headed house-holds. The total land awarded to women in this programme amounted to 145 492 hectares worth some R810 million.

170. The overall progress from 1994 to 31 March 2014 regarding the redistribution target of 30% white owned agricultural land (or 24.5 million ha) in South Africa (total of 82 million ha) is 4 313 168 million ha under land redistribution through 5 015 projects, benefiting 233 250 beneficiaries of which 50,473 are women, 32 589 are youth and 674 are people with disabilities.

171. The Municipal Systems Act, 2000 (Act No. 32 of 2000) – Chapter 2 sets out the requirement that the development of Integrated Development Plan (IDP) should include a Spatial Development Framework which provides basic guidelines for a land use system for the municipality and this requirement protects women to ensure that they are included in the use of land in municipalities.

172. Women’s access to education and health has been elaborated on in the relevant article.

173. South African Social Security Agency (SASSA) Act, (Act No. 9 of 2004) continues to be implemented through the SASSA which was established to provide an income transfer in the form of different kinds of social grants such as disability grant; a grant for older persons and a war veteran’s grant; foster child grant; care dependency grant; child support grant and a grant-in-aid through direct and unconditional cash transfers. The social grant programme has resulted in a reduction in poverty levels in these vulnerable groups.

174. The poverty alleviation programmes addressing income, human capital and asset poverty resulted in more South Africans today having access to some form of household income, even if only in the form of a social grant, formal housing, piped water, electricity and decent sanitation. Social wages are packaged in different forms such as free primary health care; no-fee paying schools; social grants and Reconstructive Development Plan housing; provision of free basic services in the form of reticulated water; electricity; sanitation and sewerage as well as solid waste management to house-holds and in particular those categorised as indigent. The proportion of indigent house-holds with access to free water, electricity, sanitation and sewerage as well as solid waste management increased by 9.8, 30.3, 19.4 and 15.4 percentage points from 2004 to 2011 respectively.

175. During 2013/2014 year, through the DRDLR awarded 134 bursaries for studies in Survey-Geometrics and Town and Regional Planning, in order to address scarce skills in the country. Beneficiaries are women and students from rural areas. Currently there are 220 bursary holders. 53 have completed their studies and were employed permanently in the government.

Part IV

Article 15–16

Article 15

Equality before the law in civil matters

Sexual Orientation

176. The National Task Team (NTT) on Gender and Sexual Orientation Based Violence perpetrated against LGBTI persons, formed by government departments, Chapter 9 institutions and civil society organisations was established to develop a National Intervention Strategy 2014–2017 on LGBTI issues. The aim of the Strategy

is to address the so-called “corrective rape” and other forms of violence against LGBTI persons.

177. At the moment, the applicable laws for the crimes of murder, assault and rape against specific persons or groups, still provides for murder as murder, assault as assault and rape as rape, however is it important to stress that courts are proactively beginning to address hate crimes even in the absence of specific hate crimes legislation.⁴⁹

178. The Rapid Response Team (RRT) was established in 2013 with the purpose of attending urgently to pending and reported cases on hate crimes perpetrated against LGBTI persons. A list of cases was received from civil society organisations and the RRT meets quarterly to updates each other regarding pending cases. The total number of cases on the list was 45, and the following were finalised: (i) 8 cases resulted in sentences of imprisonment of 30 years, 22 years, 10 years, 6 years, 15 years, 19 years, 20 years and 15 years, respectively; (ii) Of the two accused persons facing murder and robbery charges, one was sentenced to 20 years imprisonment for murder and the other one sentenced to life imprisonment for murder, plus 13 years imprisonment for robbery; (iii) Charges in 11 cases were withdrawn for various reasons including unavailability of or reluctant witnesses and untraceable accused persons; and (iv) In only 2 cases, the accused persons were acquitted.⁵⁰

Article 16

Equality in marriage and family

Marriage and family relations

179. Marriage, including customary marriages, family relations and unified family code has been responded to and submitted to the United Nation Office of the High Commissioner on Human Rights in September 2015.

180. The country continues with the implementation of the Maintenance Act, 1998⁵¹ through the Isondlo Project which helps to alleviate the problem of tracing defaulters through the training of investigators. This project has delivered improved maintenance services. This project has been replaced by the Kariunde Project, whose main focus is managing and processing maintenance cases in order to deliver best service to customers.

181. In an effort to address the neglect of children and youth in society, government has identified child maintenance as one of its key priorities. It receives more than 200 000 new applications annually. The number of maintenance enquiries has increased by 50% from 2011/12 to 2012/13, while the number of maintenance orders granted increased by 56% over the same period.

⁴⁹ In the recent case involving the conviction and sentence of the man who murdered Duduzile Zozo, Judge Tshifiwa Maumela acknowledged the problem of hate-crimes in South Africa. He sentenced the man responsible for killing Duduzile Zozo, a young lesbian from Thokoza, to an effective 30 years in prison. Judge Maumela said a harsh sentence for the 23-year-old would serve as a warning to those who threatened the vulnerable and he told the perpetrator to reconsider his attitude towards gay people while he served his sentence. “Lead your life and let gays and lesbians be,” he said.

⁵⁰ Report on the Implementation of Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007: 01 April 2014 to 31 March 2015.

⁵¹ Act No. 99 of 1998.

182. The issue of maintenance and the protection of children were again recently highlighted in a decision of the North Gauteng High Court in the Mthimunye case.⁵² In light of the judgment, government has put steps in place to address the shortcomings identified. The strategies contain both proactive and reactive measures. Proactive measures target the making of orders prior to default as many orders were poorly framed. The defaulter will now pay the beneficiary directly into their bank account. It was further felt that increasing the efficiency and effectiveness of the use of recovery measures would ensure that there was an increased success rate in the payment of outstanding maintenance to beneficiaries. Government has adopted a zero tolerance approach when dealing with maintenance defaulters. This includes the attachment of pension funds for maintenance.

Implementation of the Beijing Declaration and Platform for Action (BPfA), the Millennium Development Goals (MDG) and other international instruments

183. South Africa notes the interrelatedness of the BPfA and MDG to the CEDAW and considers all these documents in implementation of projects towards women empowerment and promotion and protection of women's rights. The country developed a report on Beijing +20 and MDG Country report in 2015. These reports have been used as a reference during the compilation of this report.

184. South Africa signed the International Covenant on Economic, Social and Cultural Rights International Covenant on Economic, Social and Cultural Rights (ICESCR) on 3 October 1994 and ratified this Covenant on 12 January 2015. By ratifying the Covenant, South Africa has reaffirmed its commitment, under the international human rights framework, to achieving social and economic justice in South Africa which is core to the transformative principles at the heart of the Constitution.

Part V General Recommendation 12 and 19

185. General recommendations 12 and 19 have to a large extent been covered earlier in the report as they mainly deal with violence against women. To avoid repetition, this section of the report will reflect on other measures that South Africa has in place to promote women's rights and prevent discrimination.

186. The Protection from Harassment Act, 2011 (Act No. 17 of 2011) is aimed at protecting victims of harassment (including sexual harassment), in order to put into effect the right of all people in South Africa to be free from all forms of violence from either public or private sources. Harassment in this regard means directly or indirectly engaging in conduct that causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person.

187. The MATTSO report recommended that all court personnel must undergo Trauma Debriefing Session to minimise and eliminate the vicarious trauma that they often suffer from dealing with sexual offences cases on a daily basis. Government

⁵² Ms. Mthimunye, a single mother, was in an ongoing struggle to obtain child maintenance from her ex-husband. Her ex-husband had from the outset been delinquent in paying his maintenance. They had two minor children and the primary residence of the children was with Ms. Mthimunye. Her ex-husband then resigned from his employment, but a pension payout was due to him. The issue in the case was the failure of the maintenance officers to attach this pension payout for the recovery of arrear maintenance. The High Court found that the maintenance officers in the case were negligent. The Court ruled, correctly, in favour of Ms. Mthimunye and held that the father of her minor child, along with the State role-players, are liable for the payment of R24 500 in arrear child maintenance.

developed the Debriefing Programme for the intermediaries and all front line staff servicing victims of sexual assault. During the period 01 April 2014 to 31 March 2015, 7 Trauma Debriefing Sessions were held in 7 Provinces, in which 250 court personnel participated.

188. Stress Management Workshops for magistrates presiding over sexual offence cases were conducted by the SAJEI. 130 magistrates were assisted through this programme.

189. A Protection Order is another means to protect women and any victims of violence or harassment. During 2013/14, the new applications for Protection Orders increased by 3.56% from 246 609 in 2012/2013 to 255 395 in 2013/2014.⁵³

190. The abuse of older persons is also a concern for the country and since August 2010 government has been collecting statistics on reported cases of abuse against older persons in terms of the Older Persons Act 2006, Act No. 13 of 2006. Statistics of court registered cases are 1 458 cases in 2010/11, 1 887 cases in 2011/12, and 2 497 cases in 2012/13. The total number of reported cases during this period is 842.⁵⁴ The information assists government in the implementation of targeted programmes.

191. Statistics⁵⁵ on misconduct related to sexual harassment in the Public Service as at 30 August 2014 highlight that 426 cases were reported from 1996 to 2014. These statistics include 87 cases of sexual assault on learners by educators; 13 cases of Regulation 20(k) acts of sexual harassment; 41 cases of sexual relations between learners and educators; and 285 cases of sexual harassment in general. Over this period, sentences given out to those found guilty range from fines to dismissals, including referrals for counselling, written warnings and suspensions for stipulated periods.

Conclusion

192. The empowerment of women cannot be achieved without the socio economic transformation of society to accelerate economic growth and overcome the triple challenge of inequality, unemployment and poverty.

193. Research shows that in instances where the woman is unemployed and the partner is a sole provider, the woman may end up without any financial portfolio should the partner refuse to provide financial assistance other than that of the essential needs of the woman. The woman is economically dependent on the partner who may be abusive at times. Violence and abuse exerts fear in victims to the extent that they do not believe that they can survive on their own in the absence of the abuser. Women thus remain in the abusive relationship to avoid the unknown life of “poverty” whilst living in poverty in reality.

194. On August 9, 2015, the President released the report on the Status of Women in South African Economy. The report covers five broad themes within this area: education; labour market; access to credit, land and property; poverty and inequality and unpaid work. However, the report is not exhaustive of all facets of women’s economic interactions. It also identifies some of the areas where society broadly has been successful in enabling women’s full participation in the economy, and where there is a need for refocused efforts. The President further requested that the Ministries in the Economic Sectors, Employment and Infrastructure Development

⁵³ Department of Justice and Constitutional Development input: January 2015.

⁵⁴ Department of Justice and Constitutional Development input: January 2015.

⁵⁵ Source: PERSAL: DPSA, 2014.

should develop implementation measures to close the gaps identified by the Report and report back to Cabinet every quarter.

195. Education underpins much of women's full engagement in the economy and is seen as key to promoting economic growth and reducing poverty. In this regard, strides have been made in achieving gender equity within education in South Africa with girls and young women having overtaken their male counterparts in terms of functional literacy, educational attainment and mean years of education.

196. In the labour market, although the evidence may be mixed, it is clear that women are still disadvantaged relative to men, as they tend to be clustered in less-skilled occupations, including domestic work.

197. Another area of success is the expansion and deepening of the social welfare system and the provision of services and housing towards the reduction of poverty over the past 20 years. In both instances, although females remain poorer than males, the improvements for women have been substantial and in some cases the improvements have narrowed the gender gap.

198. It is acknowledged that little data exists with respect to ownership of land and property amongst women as well as gender disaggregated data in some areas. There is a need to engage on a set of guidelines to ensure that data are correctly captured and disaggregated in order to identify gaps in women empowerment and thus propose further measures to close these gaps.⁵⁶

199. There is no law that prohibits women's participation in a particular job opportunity. Both males and females have equal opportunity for employment in line with our Constitutional framework. However, gender stereotypes, such as those listed below, still persist and reduce women's participation in the labour force:

- A good woman is viewed as the one who maintains the best home: Within households, the responsibility of maintaining homes is perceived to be a woman's role;
- Child rearing is a woman's responsibility: Related to the aforementioned stereotype, is the perception that child care is a female responsibility;
- Certain jobs are for females and others for males: When fields of study were analysed, both males and females continued to select fields of study associated with gender stereotypes.⁵⁷

200. The role of societal norms in dictating the behaviour of women as well as men is having an impact in shaping behaviour towards women's empowerment. This is not just a "women's issue" in that these norms and stereotypes do not only constrain females' choices, but may also remove the power of choice from men.

⁵⁶ The Status of Women in the South African Economy, August 2015.

⁵⁷ Gender Series: Volume: 1 Economic Empowerment 2001–2014.

Annex 1

Consultation report on the development of the South Africa's 5th periodic report on the implementation of the convention on the elimination of all forms of discrimination against women 2009–2014

Introduction

1. This is the consultation report on the development of South Africa's 5th Periodic Report on the Implementation of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). The report serves to respond to paragraph 49 of the Committee's Concluding Observation – [CEDAW/C/ZA/CO/4](#) where the Committee requested the State Party to “ensure the wide participation of all ministries and public bodies in the preparation of its next report, as well as to consult a variety of women's and human rights organizations during that phase”.
2. The report is also intended to provide the CEDAW Committee with comprehensive processes that the country followed for the development of the report as well as consultations to ensure that participation and inputs were received from all stakeholders that include civil society, non-governmental organisations, research institutions and academics, government and all interest groups. The report highlights consultations that took place from the development of the report until the finalised report was approved for depositing with the CEDAW Committee.
3. This report will also reduce the potential of increasing the number of pages of the main CEDAW report should this information be incorporated in it. The country therefore took a decision to annex the consultation report.

Phase 1: The development of the report

4. The Department of Women, the core coordinator of South African's reporting on all regional, continental and international instruments on the promotion and protection of women's rights, women's empowerment and gender equality issues, hosted a two-day consultation meeting with stakeholders on 21–22 May 2015. The purpose of the meeting was to bring together all stakeholders to participate in the development of the CEDAW country report, encourage unity and to report in one voice on the implementation of CEDAW in the country.
5. An open invitation was sent to government, civil society organisations and interest groups. Interested participants, particularly from the civil society organisation situated far from the venue of the meeting, with challenges related to transport and accommodation to attend the meeting, were offered support.
6. A total of 89 participants attended the two day meeting representing national and provincial government (33 National Departments, five provinces i.e. Mpumalanga, Free State, Northern Cape, KwaZulu-Natal and Gauteng), Commission for Gender Equality, Congress of South Africa Trade Union and Democratic Nursing Organisation of South Africa, United Nation Development Partners (United Nations Development Programme, United Nations Population Fund, UN-Women, International Labor Organization) and non-governmental organisations (Centre for the Study of Violence and Reconciliation, Women's Legal Centre, Human Rights Institute Of South Africa, South African Faith and Family Institute, Sonke Gender Justice and the research organisation represented by the Medical Research Council).

7. The meeting started with a presentation covering the Convention, Concluding Observations, General Recommendations in order to assist all participants to understand and link these issues to the current report. The presentation was followed by the establishment of four commissions planned and grouped in line with the relatedness of the articles. The instructions provided were for each commission to emerge with a draft report that had taken the following into consideration:

- First respond to the Committee’s Concluding Observations;
- Update the previous report in line with the relevant general recommendation; the Articles and consider crosscutting Articles, such as Articles one to four;
- Provide data and information covering the period between 2010 to end of 2014 financial year (March 2015);
- Ensure that the report does not repeat what was alluded to in the previous report.

8. By the end of the second day, each Commission emerged with its draft report. The Department consolidated the reports from the commissions into the first draft South African 5th Periodic Report on the Implementation of CEDAW of about 109 pages. Additional information was received from participants to close gaps in areas where participants could not have information at hand during the meeting.

Phase Two: Consultation on the initial Draft Report

9. In this phase, the quality of the draft report is improved by the Cluster working group which ensures that the report is of good quality and has captured at least all relevant information before it is approved for submission to the Director-General Cluster level (accountable heads of government departments). The Director-General Cluster approved the report for submission to the Cabinet Committee.

10. The Cabinet Committee is composed of Ministers. They approved the report for publication in the Government Gazette for the prescribed period of 30 days. The report was gazetted on 28 August 2015, with closing submissions due on 02 October 2015. The purpose of the gazette was to provide more opportunities for the country to access and comment on the report.

Phase 3: Comments on the Published Report

11. The Department of Women supported stakeholders to access the gazetted report by circulating it through emails and making hard copies available on request.

12. Submissions were received from government, NGOs and individuals. The non-governmental organisations that submitted their comments include: (i) Joint submission by Tshwaranang Legal Advocacy Centre (TLAC) and People Opposing Women Abuse (POWA), (ii) Legal Resources Centre (LRC), (iii) Centre for Applied Legal Studies (CALS), (iv) Sex Workers Education & Advocacy Taskforce (SWEAT), (v) the Commission for Gender Equality (CGE) and Women’s Legal Centre (WLC). These are well known organisations in the country which take the human rights of women seriously. Where applicable, the inputs were consolidated into the report although most of inputs provided suggestions on the future report.

13. The gazetted report increased in size after considering comments received after public comment. This size is far too large for the UN guidelines stated in paragraph 19 of [HRI/GEN/2/Rev.6](#). Therefore, the report was summarised into 44 pages, leaving therein substantial content. The full report, which contains the detailed information may be made available on request by the CEDAW Committee.

Phase 4: Consultation meeting on the final draft report

14. The Department of Women hosted the second round consultation meeting on 19 October 2015. The purpose of the consultation was to present the summary version of the report that will be deposited to the CEDAW Committee. The meeting accepted the report with suggestion that the stakeholders need to start with preparation for the next report to avoid late submission again.

15. The meeting was attended by 148 participants representing the national and provincial government (22 National Departments, 6 provinces i.e. Gauteng, North West, Mpumalanga, Free State, Limpopo, KwaZulu-Natal), Commission for Gender Equality, Trade Unions Federation represented by South African Democratic Teachers Union (SADTU), Health and Other Services Personnel Trade Union of South Africa (HOSPERSA) and South African Municipal Workers' Union (SAMWU), Non-government organisation (South African Faith and Family Institute, National Film and Video Foundation (NFVF), Sonke Gender Justice, Agisanang Domestic Abuse Prevention and Training (ADAPT), Amnesty International South Africa, Centre for Applied Legal Studies (CALS), South African Women in Dialogue (SAWID), Centre for the Study of Violence and Reconciliation (CSV), Dream Team Foundation, South African Local Government Association (SALGA), Human Rights Institute of South Africa (HURISA), People Opposing Women Abuse, Legal Resource Centre, Moral Regeneration Movement (MRM) and the UN Partners (UN-Women), Academic Institution (Medical Research Council (MRC), University of South Africa.

Phase 5: Final approval of the report by Cabinet

16. The report was re-submitted to Cabinet on the 9 December 2015 for final approval and was submitted to Parliament in February 2016 prior to depositing it with the CEDAW Committee. Parliament held debate on the report in May 2016 and endorsed for depositing with the UN CEDAW Committee through the Department for International Relation and Cooperation. ISBN: 978-0-621-44316-5.
