



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

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

**Summary record of the 1840th meeting**

Held at the Palais des Nations, Geneva, on Friday, 5 November 2021, at 3 p.m.

*Chair:* Ms. Narain (Rapporteur)

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*In the absence of Ms. Acosta Vargas, Ms. Narain, Rapporteur, took the Chair.*

*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 18 of the Convention** *(continued)*

*Fifth periodic report of South Africa (continued)* (CEDAW/C/ZAF/5, CEDAW/C/ZAF/Q/5 and CEDAW/C/ZAF/RQ/5)

1. *At the invitation of the Chair, the delegation of South Africa joined the meeting via video link.*

*Articles 10–14 (continued)*

2. **Ms. Gbedemah**, speaking in follow-up to a question she had asked at the previous meeting, said that she wished to know what steps were taken within the national framework on school safety to handle cases of sexual abuse, including rape, in the schools. It would be helpful to know how many reports of such abuse had been made to the police and how many prosecutions and convictions those reports had led to.

3. **Ms. Ameline** said that, as she had noted earlier, she wondered what measures had been taken to achieve gender parity in the State party's traditional chieftaincies and what steps the State party planned to take to ensure that women participated in peace negotiations and agreements, in line with Security Council resolution 1325 (2000).

4. **Ms. Watson** (South Africa) said that the parents of schoolgirls who were pregnant as a result of rape often accepted payment from the perpetrator in a misguided attempt to keep the pregnancy quiet. The authorities were doing advocacy work to help parents understand that they had an obligation to report the sexual abuse to which their children were subjected and, when a case was opened, to go to court. As a result, accepting payment for what was referred to as damages was beginning to seem less palatable to parents.

5. The number of reports of sexual abuse in the schools was tracked by the police. Data on the prosecutions and convictions those reports had led to could also be obtained.

6. **A representative of South Africa** said that, every year, there were about 2 million young South Africans in the country's post-school education and training system. In July 2020, after three years of extensive consultations, a policy and strategic framework designed to combat the alarming amount of gender-based violence in South African institutions of higher learning had been put into place.

7. **Ms. Dettmeijer-Vermeulen** said that she wished to know how the Employment Equity Amendment Act, 2013 (Act No. 47 of 2013), under which employers were required to report employee income differentials, was enforced, whether the data reported by employers had been analysed and, if so, what those data showed. She also wished to know what plans had been made to narrow the gender pay gap in the sectors of the economy where it was particularly wide. In addition, she wondered what efforts the State party made to help black women find higher-paying jobs, how many cases of sexual harassment in the workplace had been arbitrated, whether specialized committees or courts had been set up to arbitrate those cases and, if so, whether they were accessible to marginalized women or women in low-wage employment.

8. It would be helpful to know whether the State party had any data on the workers' compensation claims made by domestic workers since recent amendments to the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993). Data on the protection of domestic workers' rights in respect of working hours and wages under the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), would also be welcome. In addition, it would be helpful to know how the Act was enforced and what steps were taken to ensure that domestic workers and their employers were made aware of domestic workers' labour rights.

9. She wished to know what the State party had done to ensure that sex workers could exercise their right to fair labour practices, as recognized in a 2010 ruling of the Labour Appeal Court. She also wished to know what steps the State party took to combat

discrimination on grounds of sex in farm work, which, like domestic work, was often done behind closed doors. What did the State party do to raise awareness of farmworkers' rights among both farmworkers and their employers?

10. **Ms. Mamashela** (South Africa) said that the form on which employers had been obliged report income differentials had been revised, as employers had struggled to provide relevant data. Meaningful data had been collected beginning only in 2020. A report with an analysis of the data, which would inform the efforts made by the Government to help ensure that women earned decent wages, could be submitted to the Committee once it was published. Labour inspectors could order employers to comply with their reporting obligations, and in the event of failure to comply the case would go to the courts, which would penalize the offending employer.

11. Low-wage workers could submit complaints of sexual harassment to the Commission for Conciliation, Mediation and Arbitration, which could order employers to pay compensation to employees whose rights had been violated. All employees, whether chief executives or domestic workers, could be awarded such compensation.

12. As domestic workers had been eligible for compensation under the Compensation for Occupational Injuries and Diseases Act only since February 2021, compensation claims they had submitted had not yet been processed and relevant statistics were not yet available. The number of claims submitted by domestic workers would be mentioned in the country's next periodic report.

13. No domestic worker earned less than the wage for domestic work prescribed in the National Minimum Wage Act (Act No. 9 of 2018). Over time, sector-specific minimum wages would be harmonized, and the minimum wage would be the same for everyone. Farmworkers were entitled to at least 21.69 South African rand an hour; the minimum wage for domestic work could be raised to that amount in early 2022.

14. Workers could not be subjected to unfair discrimination even if their work was illegal. Sex workers, for example, could submit complaints to the Commission for Conciliation, Mediation and Arbitration, which could award compensation.

15. Farmworkers' conditions of employment were regulated under the Basic Conditions of Employment Act. The country's labour inspectors helped ensure that farmworkers could exercise their employment rights, and farmworkers, like any other workers, could submit complaints to the Commission and the labour courts.

16. **Mr. Msomi** (South Africa) said that the State spent billions of South African rand to help farmworkers and their families escape poverty. Farm children, for instance, were given scholarships that enabled them to complete their studies, including in institutions of higher learning, and much of the funding that was set aside for rural schools was meant specifically to help farmworkers or their children.

17. **Ms. Maluleka** (South Africa), noting that democracy in her country had addressed both racism and patriarchy, said that the country's traditional leaders had always been men. Queens had been few and far between. Although political parties had adopted voluntary gender quotas, adopting such measures in a bid to ensure that the country's traditional monarchs were as likely to be kings as queens was bound to prove infeasible; by law, however, at least 30 per cent of the country's traditional leaders had to be women.

18. South Africa had a national action plan for the implementation of Security Council resolution 1325 (2000). Women were well represented on peace missions and in the diplomatic corps. The country had provided training on mediation to women in various parts of Africa and had sent female mediators to countries affected by conflict. In his time as Chair of the African Union, the President of South Africa had encouraged the implementation of the resolution.

19. **Ms. Dettmeijer-Vermeulen** said that she would like to know the frequency with which labour inspections were carried out in rural farms and households.

20. **Ms. Mamashela** (South Africa) said that farm inspections were conducted in accordance with national labour inspection programmes adopted on an annual basis, and that the labour inspectorate carried out both proactive inspections, which targeted certain sectors

according to a quarterly plan, and reactive inspections, which were conducted in response to reports of labour law violations, both of which were unannounced.

21. **Ms. Chalal** said that health-care coverage remained sparse in rural areas, where a relatively high proportion of women and girls lived. She invited the delegation to describe the State party's plans to ensure ready access to health-care facilities throughout the country. The Committee would welcome information on the measures planned to reduce the maternal mortality ratio and prevent teenage pregnancy, for example by extending access to contraceptives and family planning services. According to some reports, 27 per cent of abortions took place in the second trimester of pregnancy. The Committee would appreciate it if the delegation could describe how the State party would ensure access to safe and legal abortion in rural areas and how it would penalize medical staff who refused to carry out the procedure.

22. The periodic report mentioned the National Strategic Plan on HIV, Sexually Transmitted Infections and Tuberculosis. Noting that the authorities had also implemented a programme to combat HIV/AIDS among women sex workers for 2016–2019, she would welcome further information on the human and material resources allocated for the implementation and effectiveness of those plans and asked whether the Government had plans to adopt measures to combat the stigmatization at health facilities of women living with HIV/AIDS and to halt the practice of sterilization of women living with HIV/AIDS without their informed consent. During the coronavirus (COVID-19) disease pandemic, sexual and reproductive health services had been curtailed, as they had wrongly been considered non-essential. The Committee would like to learn about the impact of the closure of such services, particularly for women of vulnerable groups, and how emergencies, including instances of sexual violence or abortions, had been handled during the pandemic.

23. **Ms. Makua** (South Africa) said that mobile clinics were used to make health care accessible to women in rural areas. The health authorities continually updated the instructions for the management of obstetric emergencies and the policy regarding respect for maternal care, in particular to improve communication between service users and health care professionals, which was sometimes problematic. Various government agencies were engaged in efforts to reduce teenage pregnancy, for example by establishing safe centres and times for young people to enquire about sexual and reproductive health issues. The introduction of medication abortion, which was effective between the first and ninth week of pregnancy, would hopefully reduce waiting lists and make safe abortion more widely available before the second trimester of pregnancy. The policy regarding young people's access to contraceptives had been revised so that clinics at institutions of higher education could provide appropriate services, including long-acting, reversible contraceptives. As a result, there had been a reduction of unwanted pregnancies. During the pandemic, the Government had realized that many health professionals required additional training and had thus initiated a course to improve their general skills. Over 1,000 persons had taken part, and many continued to participate in the relevant platform. Most facilities treating persons living with HIV/AIDS were now simply labelled as sexual and reproductive health centres, thus decreasing the stigmatization associated with the virus.

24. The authorities had addressed the question of forced sterilization, in particular through the actions of a ministerial committee, which had ascertained that one reason for the emergence of the problem was that consent forms had not been properly used. The consent form had now been translated into the country's 11 languages. During antenatal care, health professionals spoke with the patient about the possibility of sterilization in the event of birth complications. The authorities had very quickly realized that the closure of obstetric and gynecological services during the pandemic had been inappropriate and had reversed the decision immediately; services had quickly resumed. The reduction of services during the pandemic had been addressed through public-private partnerships.

25. **Ms. Bethel** said that the Committee would like to know in what ways the Government's initiative in support of green industries had affected the economic empowerment of women in the country, which groups had benefited, and in which economic sectors they worked. It would especially appreciate information on the ways in which the empowerment of rural and other marginalized women had been advanced in the process. The delegation might also elaborate on the gender responsive component of the national Green

Fund. She would like more information on the time-bound targets for the realization of the country's objectives in regard to women's economic empowerment and the urgent transition to a resilient, low-carbon or carbon-neutral economy, on the country's plan to reduce and eliminate the use of coal-based energy, especially in rural areas, and to replace such energy sources with affordable, sustainable energy resources and on the mechanisms in place to evaluate the progress of green industries and women's economic empowerment.

26. The Committee would like to know what measures were planned by the State party to increase women's access to public procurement spending and whether any skill enhancement or training programmes were being carried out to assist them. It would like to know whether any steps had been taken to help women, particularly in rural areas, to gain ownership or secure recognition of their property and to have the means to formalize their property rights and access to land. Women with land tenure would have collateral and would thus enjoy much easier access to financial services. For women without collateral, technological innovations such as mobile transfer services could also facilitate low-cost access to finance.

27. She would like to know if any technological solutions were in place for example to provide information on agricultural crops that were both nutritious and commercially and environmentally sustainable. As rural and migrant women tended to hold precarious jobs, often in the informal sector, they had been disproportionately adversely affected by the pandemic. She would like to know what social benefits had been provided by the Government for female migrant workers, persons with disabilities and heads of households who were not formally employed and whether the authorities would consider adopting transformative fiscal policies and strategies to meet the needs and reduce the burden borne by women in care work.

28. **Ms. Gabr**, noting the low level of female ownership of farms and land in rural areas, said that she would like to know how the land reform process had advanced and what steps the State party had taken to implement the Committee's general recommendation No. 34 on the rights of rural women. She would welcome examples and specific information on the number of women who had married under customary law and whose rights upon the dissolution of a marriage had been recognized as a consequence of the recent adoption of an amendment to the Recognition of Customary Marriages Act. Detailed information about the implementation in rural areas of the Committee's general recommendation No. 37 on gender-related dimensions of disaster risk reduction in the context of climate change would also be appreciated. The State party had mentioned the lack of financial resources with which to undertake gender-responsive action against climate change, for example through education and public awareness campaigns in rural areas with high illiteracy rates. How did the authorities plan to address that problem in the light of the international community's interest in tackling climate change?

29. **Ms. Peláez Narváez**, noting that the legal provisions and policies in the State party were quite advanced and in theory protected women in vulnerable situations, asked whether the rights of lesbian, gay, bisexual, transgender and intersex women were respected in practice, whether special protection was afforded to women refugees and asylum seekers, and whether the protection of women living with HIV/AIDS against forced sterilization would be covered in the law on sterilization. She also asked whether women previously subjected to forced sterilization would be provided with reparation and care. The delegation was invited to inform the Committee of measures in place to raise awareness among young women about HIV/AIDS and on safe sexual practices and to combat popular beliefs about HIV/AIDS, according to which, for instance, a person could cure the disorder by having sex with a virgin. She wished to know whether the authorities intended to amend a law dating from the 1960s that limited the ability of sterilized women to file civil proceedings for three years after a forced sterilization.

30. The Committee would like to know whether there were any specific legal provisions protecting women with disabilities who were victims of domestic violence and sexual violence and whether the State party would withdraw the guidelines for the licensing of facilities to care for persons with disabilities, which apparently violated their right to live within the community. What policies would the State party adopt to protect persons with albinism, and particularly women, who were often the victims of stereotypes, abuse, violence and exploitation?

31. **Ms. Makholela** (South Africa) said that the Disaster Management Act, as amended in 2015, provided for the inclusion of representatives of women's organizations, children, older persons and persons with disabilities in the National Disaster Management Advisory Forum. Pursuant to the Act, a web-based national disaster loss, damage and knowledge database system was to be developed, with data on affected populations disaggregated by geographic area, gender, age and disability.

32. The Climate Change Bill and the National Climate Change Adaptation Strategy specifically acknowledged the need for decision-making to consider the special needs and circumstances of localities and people who were particularly vulnerable to the adverse effects of climate change, including women, especially poor and rural women. The Presidential Climate Commission had been established to advise the Government on pathways to transition to a lower-carbon and climate-resilient society. It was composed of representatives from business, labour, NGOs, the science community and the Government. The Department of Forestry, Fisheries and the Environment also had a dedicated monitoring and evaluation system to check how the country was progressing in its climate transition.

33. **Ms. Makgotla** (South Africa) said that the Government had called for 40 per cent of all public procurement spending to be allocated to women-owned businesses. The presidency and the National Treasury were monitoring procurement to ensure that the target was achieved. The Women Economic Assembly had been launched in October 2021, bringing together procurement specialists from the public and private sectors and women entrepreneurs. With regard to information and communications technology support for women, digital hubs and incubation hubs in townships and rural areas gave women who ran small, medium and micro enterprises and informal businesses opportunities to develop their skills and take advantage of digital platforms. The Government also ensured that women entrepreneurs had access to funding. The specialized fund for persons with disabilities in business prioritized women with disabilities. The Small Enterprise Development Agency provided non-financial support to many women entrepreneurs, in both formal and informal businesses, to develop their business and marketing skills. The Agency was also helping to implement the International Labour Organization Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The Green Fund was also a source of support for women.

34. **Mr. Zulu** (South Africa) said that the Department of Agriculture, Land Reform and Rural Development dealt with issues of land reform pursuant to sections 25 (5) and (6) of the Constitution. Efforts were being made to fast-track access to land for women, young people and persons with disabilities. Under the National Policy for Beneficiary Selection and Land Allocation adopted in 2020, 50 per cent of the land available must be allocated to women. Work was under way on the bill on land redistribution, which would provide different models to support the allocation of land to women, in line with the White Paper on Land Policy. As part of the land redistribution programme, the Government had thus allocated 5 million ha of land to 308,000 beneficiaries, of which 480,000 ha had been allocated to 71,000 women. The land tenure reform programme addressed issues related to women's security of tenure, especially in communal and rural areas. A position paper on communal land had been approved to try to address insecurity of tenure in those areas. The Department had completed consultations with the traditional councils across the country and was now consulting with the communities to address issues of insecurity of tenure and access to land by women. The Upgrading of Land Tenure Rights Act had been amended pursuant to an order of the Constitutional Court, as it discriminated against women in that, in the event of the upgrading or conversion of a title deed, ownership had always been granted to men. Women had now also been given that right. The draft of the communal land tenure bill had also been finalized and would address issues related to the tenure of vulnerable groups within traditional communities, where land was normally only allocated to men. Concerning the farm workers evicted in commercial farming areas, most of whom were women, the Extension of Security of Tenure amendment bill had been passed into law and the accompanying regulations were currently being finalized. Agri-villages were being developed to provide rural women with homes and long-term security of tenure.

35. **Ms. Makua** (South Africa) said that one of the measures taken with regard to the issue of forced sterilization was to educate women on their sexual and reproductive health rights

and the importance of consenting to any medical procedure. An awareness-raising campaign on HIV/AIDS was currently being run on national and community radio stations, and outreach activities were being conducted in the most rural areas, where people did not have access to digital platforms, on a range of health-related issues, including HIV/AIDS. Increasingly, the emphasis in the health system was on prevention rather than cure. Men were also being included in the various strategies to ensure that they were better informed about reproductive health issues and supported their partners in visiting health facilities.

36. **Ms. Kambula** (South Africa) said that the Land Claims Court had been established for a limited period to deal with claims for the restitution of land. The Land Court Bill had thus been developed to provide the framework for the establishment of a permanent court, whose judgments would be appealable before a special land court of appeal. Such a structure would allow the State party to properly deal with issues of historic dispossessions of land.

37. With regard to violence against persons with disabilities, a national policy framework on reasonable accommodations for persons with disabilities had been developed to make the criminal justice system accessible to persons with disabilities and ensure that they could attend courtrooms to testify if they were the victims of a crime.

38. **Ms. Makgotla** (South Africa) said that the lockdowns imposed in response to the COVID-19 pandemic had had a particular impact on women entrepreneurs, most of whom ran businesses in highly vulnerable sectors such as tourism and manufacturing. The Government had rapidly taken measures to mitigate the economic effects of the pandemic by saving jobs and protecting business owners. A debt relief facility had been introduced for small, medium and micro enterprises to help company owners pay their salaries and bills; almost 66 per cent of the funds allocated had gone to women-owned businesses. The township and rural enterprise support fund had also provided small grants to women entrepreneurs, including women who ran informal businesses, to help them sustain and diversify their businesses during the pandemic. To mitigate the effects of any future pandemics, women-owned small, medium and micro enterprises were also receiving support to leverage technology and e-commerce platforms and improve their digital and financial literacy. Efforts were also being made to empower women entrepreneurs to manufacture more products locally, including personal protective equipment.

39. **Ms. Bethel** said that she would be particularly interested to hear a response to her question on the empowerment of women in the green economy and the transition from a coal-based to a low-carbon economy.

40. **Ms. Nkoana-Mashabane** (South Africa) said that the delegation would provide a detailed response to that question in writing.

41. **Ms. Makholela** (South Africa) said that the Presidential Climate Commission was dealing with issues related to the transition from a coal-based to a net-zero economy.

#### *Articles 15 and 16*

42. **The Chair** said that she wished to know when the State party would enact a law prohibiting all child marriages that would apply equally to boys and girls and allow for no derogations. In view of the fact that *ukuthwala*, involving the abduction of women and girls for the purpose of forced marriage, continued to be practised, particularly in rural areas, she asked when the single marriage bill currently under consideration might be submitted to Parliament, whether women and girls had been consulted over the preparation of the bill and whether it addressed the issues of polygamy, polyandry, the minimum age for marriage and harmful practices such as forced marriage. She wondered what effect the adoption of the bill would have on the recognition of customary marriages, women's inheritance rights and the recognition of religious marriages, including Muslim and Hindu marriages. The Committee would be interested to know whether interim measures would be taken to protect the rights of women seeking a divorce after contracting a Muslim or Hindu marriage.

43. The Government might state whether it had taken any steps to raise awareness among women's rights activists and justice officials of general recommendation No. 29 (2013) of the Committee and general comment No. 6 of the African Commission on Human and Peoples' Rights, both of which addressed the economic consequences for women of

marriage, divorce and separation. Lastly, she asked whether any steps were being taken to enhance women's marital property rights, including the tenure rights of rural women in customary marriages, and whether the State party would amend its legislation in the light of the recommendations on marital property rights issued by regional and international organizations.

44. **Mr. Mahumani** (South Africa) said that the Government was aware that some of the country's legal provisions on marriage were in violation of the Convention. It was currently developing a proposal for the amendment of laws on marriage that would eliminate all exceptions to the prohibition of child marriage. With regard to women's inheritance rights, the Constitutional Court, in its rulings in the cases of *Gumede (born Shange) v. President of the Republic of South Africa and others* and *Ramuhovhi and others v. President of the Republic of South Africa and others*, had found that sections 7 (1) and (2) of the Recognition of Customary Marriages Act discriminated against women's property rights and were therefore unconstitutional. In response to those findings, the Government had adopted the Recognition of Customary Marriages Amendment Act (No. 1 of 2021), which provided that the community of property regime automatically applied in monogamous customary marriages while joint and equal rights to marital property must be enjoyed by all spouses in a polygamous marriage. Steps would be taken to ensure that Muslim and Hindu marriages were fully recognized in law. One of the six pillars of the National Strategic Plan on Gender-Based Violence and Femicide concerned measures to raise awareness of the extent and nature of gender-based violence in South Africa. The Government was making plans to raise awareness of the consequences of the Recognition of Customary Marriages Amendment Act (No. 1 of 2021).

45. **Mr. Smith** (South Africa) said that, in the case of *Jezile v. the State and others*, the court had rejected the appellant's claim that *ukuthwala* constituted a traditional practice of his community and that he should therefore be exonerated from the charge of trafficking in persons for the purpose of sexual exploitation. Although the court had recognized the legitimacy of certain traditional practices, its ruling had established that legal action would be taken against acts that constituted criminal offences. Following that ruling, further prosecutions had been brought against persons who had cited the practice of *ukuthwala* in an attempt to justify the commission of criminal offences. The National Prosecuting Authority, in conjunction with the Department of Justice and Constitutional Development and other agencies, had conducted campaigns to raise awareness of the fact that certain practices were unlawful. In so doing, it had sought to obtain the support of traditional leaders.

46. **Ms. Maluleka** (South Africa) said that the bill on Muslim marriages had been supported by some members of the Muslim community but opposed by a number of imams, religious leaders and ordinary Muslims of both sexes, who felt that the laws set out in the Qur'an were sacrosanct and could not be contradicted. As the process of developing the bill had been complicated and protracted, the Government was now seeking to develop a single marriage bill that applied to all marriages, including all customary, religious and polygamous marriages. The inheritance rights of persons in customary marriages were protected by laws that were currently in force.

47. **Ms. Nkoana-Mashabane** (South Africa) said the COVID-19 pandemic had had an adverse impact on gender equality but had also provided opportunities for exploring new ways of empowering women and girls. The Government was committed to processing the bill on women's empowerment and gender equality, which was intended to strengthen the regulatory framework on gender equality and facilitate the assessment of the Government's actions in the area. The bill would also make it possible to fully implement gender-responsive budgeting and to hold stakeholders accountable for their contributions to promoting gender equality.

48. The Department of Women, Youth and Persons with Disabilities was continuing to strengthen its partnerships with the National Treasury, the Department of Planning, Monitoring and Evaluation and the International Monetary Fund to ensure that gender-responsive budgeting was implemented across government agencies and at the municipality level. The Government was making efforts to ensure that the gender perspective was considered in the implementation of the South African Economic Reconstruction and Recovery Plan. Consultations were being conducted in connection with a bill on the



establishment of a national council on gender-based violence and femicide, which would ensure the full implementation of the National Strategic Plan on Gender-Based Violence and Femicide. In line with the Government's constitutional mandate to protect the rights and dignity of persons with disabilities, most of the legislative framework on responses to gender-based violence included specific provisions for such persons.

*The meeting rose at 5 p.m.*