



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

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

**Information received from South Africa on follow-up to the
concluding observations on its fifth periodic report***

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* The present document is being issued without formal editing.



I. Introduction

1. The Committee on the Elimination of Discrimination against Women having considered the fifth periodic report submitted by South Africa and examination of the report at the Committee's eightieth session held in October/November 2021, transmitted the Committee's concluding observations to the Permanent Mission of South Africa.
2. In paragraph 67 on follow-up to the concluding observations, the Committee requested South Africa to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 10 (b) (c), 28 (e) and 34 (b) of the concluding observations.
3. Hereunder are the specific recommendations and Government responses elicited from the various South African Government Departments, whose mandates is relevant to the above-mentioned concluding observations and recommendations.

II. Follow-up information

A. Follow-up information relating to paragraph 10 (b) of the concluding observations

4. Training of Judges, prosecutors and other law enforcement officers is offered at different levels and by different institutions. Section 66 (2) (a) and (b) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 places the responsibility on the Director of Public Prosecutions to develop directives for prosecutors and related training courses. These training courses, as prescribed, must include training on the developed directives; also include social context training in respect of several offences; and provide for the use of standardized procedures. This is ultimately with the view to ensure that "as many prosecutors as possible are able to deal with sexual offences cases in an appropriate, efficient and sensitive manner". Section 66 (5)(a) of the Act requires that the training course completed must be tabled in parliament. Training courses and curriculum are reviewed annually to keep up with the latest relevant cases and developments in related legislation to ensure that prosecutors are up to date and trained accordingly to deliver the best in the prosecution of sexual offences.
5. The Justice College amended the learning modules to align them with the changes introduced by the signing into law of 3 pieces of legislation aimed at strengthening efforts to end gender-based violence, with a victim-centred focus on combating this dehumanising pandemic. These are the Criminal and Related Matters Amendment Act 12 of 2021, the Criminal Law (Sexual Offences and Related Matters) Amendment Act 13 of 2021 and the Domestic Violence Amendment Act 14 of 2021. The modules for the Basic Training and Advanced Training on Intermediary Services were also aligned to the Criminal and Related Matters) Amendment Act, 2021 (Act No 12 of 2021) and the new two (2) Determinations of Persons or Categories or Class of Persons who are Competent to be Appointed as Intermediaries.
6. The South African Judicial Education Institution (SAJEI) continues to provide judicial education and training for Judicial Officers to ensure enhanced service delivery and the transformation of the Judiciary for Judges and Aspirant Judges in South Africa. The regional magistrates are trained by the Regional Court President Forum.
7. The Sexual Offences and Community Affairs (SOCA) Unit was established in the National Prosecuting Authority (NPA), as a specialist Unit at Head Office with a

strategic and operational mandate to deal with all gender-based violence (GBV) matters nationally with colleagues in the Director of Public Prosecution divisions. It has been positioned itself as a formidable force in / at the forefront of the fight to address gender-based violence and femicide under the able leadership of the Special Director. SOCA created unique opportunities to ensure that GBV victims are provided with the best pre-trial and other services at a time that they are at their most vulnerable.

8. SOCA has further expanded the mandate of the Thuthuzela Care Center (TCC) model to enhance the focus of domestic violence matters in addition to sexual offence matters, to broaden the scope of the model. The TCC model provides a best practice model for pre-trial services for victims of sexual offences. The number of victims of domestic violence seeking help at the TCCs has increased allowing for an opportunity, to break the cycle of violence which often precedes a femicide. To amplify the services offered to domestic violence victims, SOCA commenced the rolling out of a domestic violence protocol to all TCCs which serves as a vehicle for victims to obtain domestic violence protection orders.

9. In the country, Sign Language was officially added as the 12th official language. This is a massive step in addressing the marginalization of the deaf community. In support of this, SOCA collaborated with the deaf community and produced a video for deaf victims who seek help at a TCC. The video uses a sign language interpreter to explain the TCC processes so that the victim is made to feel comfortable and safe immediately and aware of what to expect. This increases the accessibility to the TCCs by deaf victims. Collaborations have commenced to introduce a basic sign language course for all TCC officials to further assist in the services rendered to deaf victims.

10. In relation to training and skills development, in the 2023/24 financial year, 197 training sessions were delivered in relation to GBV - on sexual offences, domestic violence, child justice, maintenance, trafficking in persons - to prosecutors and integrated multi-sectoral training for stakeholders nationally.

11. As part of the integrated stakeholder training, law enforcement officials from various departments and or sections in the South African Police Services are included. Furthermore, prosecutor-guided investigations are provided by the TCC state advocates (specialists in GBV matters) and prosecutors are strong in all GBV matters but specifically in sexual offence matters. This is to guide the investigation of these cases to ultimately increase the number of prosecutions and convictions of these cases. In addition, our training material includes a comprehensive module on social context awareness to assist trainees with all the aspects of social context in dealing effectively, and efficiently with GBV cases, victims, and witnesses. This is to enhance the quality of prosecutions, the success rate of these cases and to empower victims within a victim-centric environment in the process of becoming survivors.

12. To further contribute towards the creation of an enabling environment, the SOCA Unit and its officials participated in 290 public awareness events on various related topics on GBV nationally during the international 16-days of no violence against women and children campaign. These public awareness campaigns are delivered to communities on different topics throughout the year to enhance and empower the broader public on their knowledge and actions to be taken when confronted with GBV. It includes several webinars, radio talk shows, community sessions, schools and tertiary discussion sessions to learners and educators.

13. With reference to the latest amendments to legislation in the Criminal Procedure Act, Domestic Violence Act and the Sexual Offences Related Matters Amendment Act, specifically in relation to victims of GBV, SOCA reviewed and amended the current NPA policy directives (applicable to prosecutors) for domestic violence and sexual offences. Furthermore, a Femicide directive was developed to assist and guide

prosecutors in dealing with these matters. The SOCA unit also participated in the amendment process of annexures to charge sheets in relation to sexual offences, domestic violence, and trafficking in persons, specifically.

14. The SOCA Unit compiled a list of GBV-offences focusing on both the common law offences and statutory law offences. This includes those offences that are in nature GBV-related but also those, where the intention of the offender is indicative of his/her intention in committing the offence, that is GBV-related. This is to assist all Government departments in the Criminal Justice System (specifically as outlined in pillar 3 of the National Strategic Plan (NSP) to end Gender-Based Violence and Femicide (GBVF)) to guide them in identifying those offences or conduct of offenders that are GBV related, which will assist them in dealing with these matters appropriately. Secondly it will also guide the process in determining the exact scope and scourge of GBV-related offences committed in the country. The SOCA team developed (with inputs from stakeholders) the final draft of the document which will be submitted via NPA senior management to the Department of Justice and Constitutional Development and the governance coordinators of the NSP on Ending GBVF.

15. In the Intersectoral Committee on Domestic Violence, the SOCA Unit forms part of the team that is reviewing the current Safety Plan for Domestic Violence victims (to be accessed by victims on the website of the Department of Justice), which is a step-by-step guide to assist victims with action to be taken in domestic violence abusive relationships.

TCC statistics for the period April to December 2023 in the 2023/24 Financial Year (FY) versus the same period for the previous FY (2022/23):

1. Matters reported at the sites (with victims receiving the TCC-services at sites):

2023/24 FY	2022/23 FY
29 492 (an increase of 1770 matters or 6.4% on the previous FY).	27 722

Of these matters reported, 24 250 (83.1%) are on sexual offences and 3668 (12.4%) are on domestic violence related matters. The domestic violence matters reported relates to an increase of 27.2% versus the previous FY.

2. Conviction rate of TCC reported and prosecuted cases:

2023/24 FY	2022/23 FY
77.5% (with 1298 cases finalized and 1006 convictions). This is an increase of 1.5% and 165 cases versus the previous FY.	76% (1133 cases finalized with 861 convictions).

3. Sentencing of TCC finalized cases:

2023/24 FY	2022/23 FY
Life imprisonment (Number of these sentences imposed by courts) 160 (decrease of 17 in previous FY).	Life imprisonment (Number of these sentences imposed by courts) 177

TCC statistics for the period April to December 2023 in the 2023/24 Financial Year (FY) versus the same period for the previous FY (2022/23):

20 -25 years imprisonment (Number of these sentences imposed by courts) 118 (same as previous FY).	20 -25 years imprisonment (Number of these sentences imposed by courts) 118
10 -19 years imprisonment (Number of these sentences imposed by courts) 328 (increase of 32 on previous FY).	10 -19 years imprisonment (Number of these sentences imposed by courts) 296
Number of accused sentenced: 1088 (an increase of 210 or 23.9% on the previous FY)	Number of accused sentenced: 878

16. The South African Police Service provides the following training programs that support the prioritization of women, youth, and persons with disabilities:

- (a) Basic Course in Hostage and Suicide Negotiation;
- (b) National Victim Empowerment Training Programme;
- (c) Children and Youth at Risk;
- (d) Human Rights in Policing Programme;
- (e) First Responder to Sexual Offences Learning Programme;
- (f) Sexual Offences Course for Investigating Officers;
- (g) Domestic Violence Learning Programme (new);
- (h) Resolving of Crime Learning Programme;
- (i) Vulnerable Groups Learning Programme;
- (j) Family Violence Child Protection and Sexual Offences Learning Programme.

B. Follow-up information relating to paragraph 10 (c) of the concluding observations

17. To strengthen victims support services, South Africa is currently processing the Victims Support Services Bill for cabinet approval.

18. The proposed Bill seeks to provide a framework to guide and inform the provision of integrated and multi-disciplinary services for victims of violent crimes; and co-ordinate all activities and services by government departments in the Justice, Crime Prevention and Security Cluster as well as in the Social Cluster, to provide more efficient and effective services. The legislation will address gaps in all existing victim support services related legislations such as Domestic Violence Act which is silent on the role, management and registration of shelter services for victims of violent crimes. It will assist with monitoring the quality of services rendered within the victim support services' sector and in addressing the scourge of violent crimes and improve referrals.

19. To strengthen the victim support services, the Department of Social Development has embarked on a project of conversion of unused Government properties into shelters for victims of GBV, working with the Department of Public Works and Infrastructure. The project is ongoing, and buildings are being identified

in all the nine provinces for allocation to the Department of Social Development. The project management team comprising of national and provincial representatives of the two departments are also ensuring that local by-laws are strictly adhered to during occupation and conversion for operationalization as GBV shelters.

20. Shelters that are managed by the Non-Profit Organisation (NPO) sector receive subsidy from the Department of Social Development to provide shelter services. The funding is administered in line with the Public Finance Management Act, 1 of 1999 and the Department of Social Development's Sector Funding Policy (SFP) which has recently been reviewed and approved. Capacity building of officials on the Sector Funding Policy is ongoing to acquaint them with the provisions of the Policy which in turn will improve efficiencies in the management of transfers to NPOs.

21. The Department of Social Development has also sourced funding through the National Lotteries Commissions, Criminal Assets Recovery Account (CARA) funds; and developmental partners such as the European Union and Global Fund to support GBV Shelters.

C. Follow-up information relating to paragraph 28 (e) of the concluding observations

22. There is currently an Inter-Ministerial Committee on GBVF established in the country and comprises approximately 8 Ministers whose mandate involves issues of addressing GBVF.

23. Unfortunately, at this stage there is no Inter-Ministerial Committee for the coordination of Women's Rights reporting obligations and follow up on implementation of concluding observations. However, there was a Cabinet approved structure established that was co-chaired by the Department of International Relations, the Department of Justice and the South African Human Rights Commission with the responsibility to oversee the country's implementation of and reporting to international commitments and compliance issues. Due to technical challenges, this Committee is no longer functional.

24. However, this matter is being addressed. The process of establishing a committee for the coordination of reporting obligations is at an advanced stage in South Africa. The process of establishing an Inter-departmental Committee on Treaty Obligations (Inter-departmental Committee) is awaiting cabinet endorsement. The proposed Inter-departmental Committee will be co-chaired by the Department of Justice, Department of Women, Youth and Persons with Disabilities, and the Department of International Relations and Cooperation. Other key departments to form the Committee include those who play major roles on compliance with treaty obligations: Departments of Labour and Employment; Social Development; among others in the country (country reports revolve around these departments in terms of RSA treaty obligations).

D. Follow-up information relating to paragraph 34 (b) of the concluding observations

25. In terms of section 17. (1) of the Marriage Bill (2023), "Any person who enters into a marriage with a person who is not at least 18 years of age, or any person, other than a child, who participates knowingly in such a marriage, shall be guilty of an offence and liable on conviction to a fine or in default of payment, to imprisonment for a period not exceeding 5 years or to both such fine and such imprisonment".

26. Harmful practices including Ukuthwala, and female genital mutilation are criminalised in South Africa. The following legislations criminalises these practices, having sex with a child without her consent, following her kidnapping and abduction (Ukuthwala), constitutes rape in violation of the Criminal Law (Sexual Offences) Amendment Act, 2007 (Section 15). This Act, which is known as the Sexual Offences Amendment Act, 2007, prohibits sex with a person without their consent. Regarding a child, the age of consent is 16 meaning that sex with an under-16-year-old is statutory rape. Sex with a child that is 12 years and below is considered as rape as a child of that age is legally incapable of consent. The Act also prohibits other sexual activities with children (sections 16 and 17), including sexual grooming (Section 18). Section 17 of the Sexual Offences Amendment Act, 2007 prohibits the sexual exploitation of children by parents and others. Parents or relatives and others who collude in or aid and abet the Ukuthwala of a girl-child commit the crime of sexual exploitation of children. These parents and relatives also face being charged with Trafficking in Persons under Section 71 of the Sexual Offences Act.

27. According to the Prevention and Combating of Trafficking in Persons Act, parents, and relatives that hand over a child into forced marriage for financial or other gain can potentially be prosecuted under Section 4 read with Section 1 of the Act. The Act prohibits the recruitment, sale, supply, procurement, transportation, transfer, harbouring, disposal, or receipt of persons by means of the use of threat, force, intimidation, or other forms of coercion; or by abusing vulnerability, for the purpose of exploitation.

28. The customary Initiation Act of 2021 prohibits initiation of children between the ages of 16 and 18 years. In terms of section 12 (3) of the Children's Act, genital mutilation or circumcision of female children is prohibited.

29. It must be noted that all known cases of ukuthwala and female genital mutilation are investigated, that perpetrators are prosecuted and adequately punished, and that women and girls in such unions have access to protection, including adequate shelters and victim support services. There are case laws as evidence to this.
