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**Promotion and protection of all human rights, civil,
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including the right to development**

Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to South Africa*

Note by the Secretariat

This report contains the findings and recommendations of the Special Rapporteur on violence against women, its causes and consequences, on her visit to South Africa from 4 to 11 December 2015. The mandate holder examines the gaps and challenges in fulfilling the States obligation to eliminate violence against women, its causes and consequences and recommends measures for preventing and combating violence against women in the country.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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** Circulated in the language of submission only

I. Introduction

1. At the invitation of the Government, the Special Rapporteur on violence against women, its causes and consequences, Ms. Dubravka Šimonović, visited South Africa from 4 to 11 December 2015.

2. During her eight-day visit, the Special Rapporteur met in Pretoria with the Minister in the Presidency responsible for women and high-level officials from her Department, which were in charge of organizing the official programme of the visit. She held two sets of consultations with high-level officials of the following Ministries: labour, social development, home affairs, health, rural development and land reform, education, human settlements, police (including the Deputy Minister), justice and correctional services (including the Minister), home affairs, and the national prosecution authority, including the Sexual Offences and Community Affairs unit. She visited the women section of the Pretoria Central prison (Kgosi Mampuru II) where she listened to testimonies of women detained. She also travelled to Cape Town and East London where she met with a wide range of Province Government officials. In Johannesburg, she exchanged views with both Deputy Presidents of the Constitutional Court and the Supreme Court of Appeal.

3. The Rapporteur also held consultations with the independent constitutional bodies known as belonging to the Chapter 9 Institutions: the Commission for Gender Equality (CGE), the South African Human Rights Commission, the Commission for the Promotion and the Protection of the Rights of Cultural, Religious and Linguistic Communities and the Public Protector.

4. She also visited several shelters in Pretoria, Johannesburg, and Cape Town, which provided her the opportunity to meet with women survivors. Throughout her visit, she also held large consultations with numerous civil society representatives and members from academic institutions. She wishes to acknowledge in particular the role that Masimanyane Women's Support Centre played in facilitating civil society meetings. She also visited the outskirts of both Khayelitsha and Diepsloot townships. Finally, she exchanged views with representatives of some United Nations agencies and programmes in the country.

5. She also would like to thank in particular the Regional Office for Southern Africa of the Office of the High Commissioner for Human Rights, for the assistance extended prior to and during the mission.

6. The Rapporteur expresses her gratitude to the Government for its excellent cooperation, its frank attitude and openness and to the CSOs, academics and other stakeholders for their valuable inputs. She expresses her heartfelt thanks to all the victims of violence who agreed to relate their personal experiences; their testimony was crucial to gain a deeper understanding of the situation of women in South Africa.

II. General context

7. South Africa is still a young democracy deeply influenced by its historical violent past characterised by race, class and gender divide. The violence inherited from the apartheid still resonate profoundly in today's society dominated by deeply entrenched patriarchal norms and attitudes towards the role of women and which makes violence against women and children, especially in rural areas and in informal settlements, a way of life and an accepted social phenomenon. At the core of this violence against women pandemic lie unequal power gender relations, patriarchy, homophobia, sexism and other harmful discriminatory beliefs and practices. Additional triggers of VAW include widespread use of drug and alcohol, high unemployment rate and the continuing

stereotypical portrayal of women in the media. Compounding the problem is the high incidence of HIV¹.

8. The Rapporteur welcomes efforts to improve the overall security situation in the country, including the adoption of the National Development Plan which aims to eliminate poverty, reduce inequality and insecurity by 2030, and which forcibly spells out that “By 2030, people living in South Africa should have no fear of crime. Women, children and those who are vulnerable should feel protected.”²

9. In a national context in which all the different interlocutors met have repetitively said that in spite of a progressive and inclusive Constitution and laws such as the Domestic Violence Act and the Sexual Offences and Related Matters Act, violence against women and girls is widespread, at a high level and normalised. These stakeholders have all recognised a huge gap between the proclaimed Constitutional principles of gender equality and non discrimination and their practical realization. Section 9 of the Constitution proclaims the rights of all persons to equal protection and benefit of the law, and to freedom from unfair discrimination on the basis of gender, sex, pregnancy and marital status but those rights are not protected in everyday life. In order for an individual woman victim of violence to enjoy in practice the realization of the principle of equality between men and women and the respect of her human rights and fundamental freedoms, the political will expressed in the Constitution as well as in accepted international and regional instruments on women’s rights must be supported by a set of comprehensive legislative measures, including the renewed assessment of the elaboration for a Gender Equality Act and/or other laws that efficiently translate those rights into realities, including the possibility to amend the Promotion of Equality and Prevention of Unfair Discrimination Act 2000 (PEPUDA). Their implementation must be supported by effective actions of State actors, who adhere to the State party’s due diligence obligations. This would not only protect women and girls, but also prevent and combat violence against women, and provide adequate services to survivors of VAW, punish perpetrators and prevent such violence addressing its root causes and its persistence and tolerance.

III. Manifestations of violence against women, its causes and consequences

10. Data on prevalence and manifestations of VAW reported reveal high level and persistence of different forms of such violence what amounts to systematic women’s human rights violations. There is no centralized statistics on incidents and types of violence against women, beyond the mere recording of sexual offences crimes under the Sexual Offences Act in the South African Police Service (SAPS) released annually. In addition, statistics are in no way conclusive of the real prevalence of VAW as it is an unchallenged fact that there is massive under-reporting of all forms of gender-based violence crimes. In order to shed light on the magnitude of each of the manifestations of VAW encountered, the SR cites, when available, relevant data emanating from recent smaller scale national and international research.

11. The preliminary findings of a 2011 prevalence study in the province of Gauteng conducted by Gender Links and the Medical Research Council found out that more than three quarters of men have perpetrated violence against women in their lifetime and more than half of women have experienced gender-based violence³. Particular women’s groups,

¹ prevalence rate of 18.9% of Adults aged 15 to 49 prevalence rate,UNAIDS,2014

² National Development Plan2030

³ <http://www.mrc.ac.za/gender/gbvthewar.pdf>

such as women irregular migrants, trafficked or refugees' women, women belonging to sexual minorities, women living with disabilities, orphans and other vulnerable girls, faced increased risks.

12. Below, the SR analyses some of the most prevalent manifestations of violence that were discussed during her visit, without aiming at being exhaustive of all the different existing forms of VAW in South Africa.

A. Femicides or gender-related killings of women

13. Studies have shown that in some countries between 40 and 70 per cent of female murder victims are killed by an intimate partner⁴. South Africa being among these countries, it makes it one of the countries with the highest rate of femicides. A 2009 national study based on data collected on homicides showed that homicide was declining, that there was a reduction in female homicide, but that such reduction was less among intimate partner femicides while "rape homicides" had proportionately increased.⁵ The study concluded that intimate partner violence was the leading cause of death of women homicide victims with 56% of female homicides committed by an intimate partner. As with all forms of intimate-partner violence, intimate-partner femicide is likely to be significantly underreported.

14. The SR reiterates the call she directed to all UN Members States to establish a "femicide" or "gender-relating killings" watch⁶. Through such watch, States should collect and release every year data on the number of such killings, disaggregated by age and sex of the perpetrators, and providing information about the relationship between the perpetrator and the victim/s as well as prosecution and punishment of the former. Most importantly each case should be carefully analysed to identify any failure of protection with a view of improving and developing further preventive measures.

B. Domestic violence

15. Domestic violence is not recorded by the SAPS as a specific crime category and therefore there are no national statistics available. When cases of domestic violence are reported to the police, they are recorded under a range of different categories such as assault, malicious damage to property, pointing a firearm, murder etc.

16. Few studies have been conducted on the prevalence and forms of domestic violence, mostly on intimate partner violence which is said to be the most common form of violence experienced by women. The most recent research in Gauteng found that just under one in five women (18.13%) women reported an incident of violence by an intimate partner while among 1378 men surveyed working in Cape Town municipalities reported perpetrating violence towards their female partners in the past ten years⁷. Patterns of co-occurrence of child abuse with intimate partner violence were increasingly reported.

⁴ https://www.unodc.org/documents/congress/background-information/Crime_Statistics/Global_Study_on_Homicide_2011.pdf, page 58

⁵ <http://www.mrc.ac.za/policybriefs/everyeighthours.pdf>

⁶ <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16796&LangID=E>

⁷ <https://www.issafrica.org/uploads/PolBrief71.pdf>

C. Sexual violence, including rape

17. The Medical Research Council has estimated that only one in nine rapes are reported to the police⁸, and a 2010 study in Gauteng found that while one in 13 women raped by a non-partner reported the matter to the police, only one in 25 women raped by their partners reported the offence⁹.

18. In 2011, 55% of the rape survivors counselled by Rape Crisis Cape Town Trust had been raped by more than one offender. Of these rapes, 25% had been perpetrated by known gangs. In multiple perpetrator rapes, the number of offenders ranged from 2 to 30 in respect of any one victim¹⁰. Another study offering an analysis of 1 886 rape dockets opened at 70 police stations in Gauteng Province in 2003 found out that the multiple perpetrator rape ('gang rape') constituted 16% of all cases. Most of these incidents started when the victim was outdoors, either alone or accompanied, and occurred in the open or in a public space. In contrast, single perpetrator rape mostly occurs in a home¹¹.

19. There is a high level of sexual violence against girls in schools perpetrated by both teachers and classmates. In addition, girls suffer sexual violence also on the way to and from school. In 2006, the South African Human Rights Commission (SAHRC) stated that sexual violence against female learners, including violence perpetrated by educators, was one of the most prevalent forms of violence identified through its hearings on violence in schools¹². A 2014 report that examined the gaps in accountability that permit the continued abuse of learners by educators in the province of Gauteng concluded that there were such gaps throughout the system. These gaps are reportedly due by the lack of implementation of national laws and procedures for disciplining perpetrators and of coordination amongst the Department of Basic Education and the South African Council of Educators which have both been delegated with the duty to launch disciplinary procedures against the perpetrators. This has created a tedious, duplicative and overlapping system. Among the fundamental obstacles to hold teachers accountable are the culture of silence which pervades the school community and the lack of knowledge on reporting mechanisms, including that section 54(1) of the SOA which makes it a crime for anyone who knows about the commission of a sexual offense against a child not to report it¹³. The cost of sexual violence in school is high in particular for girls who often drop out, including because of unwanted pregnancies.

20. Research has shown that sexual violence and other forms of gender-based violence, such as sexual harassment, in mining are rife and not once off phenomena¹⁴. While the 2002 ban's lift on women in the mining sector coupled with the introduction of a 10% women quota in the Mining Charter are commendable from the point of view of equal working opportunities, women miners constitute a minority group underground and are routinely victims of sexual violence, harassment and abuses, such as male employees

⁸ R Jewkes and N abrahams, The epidemiology of rape and sexual coercion in South africa: an overview, *Social Science and Medicine*, 55:7, 2002, 1231–1244.

⁹ M. Machisa et al, The War at home. GBV indicator projects, Gender links, 2010

¹⁰ <http://rapecrisis.org.za/rape-in-south-africa/#prevalence>

¹¹ <https://www.issafrica.org/uploads/CQ41Jewkes.pdf>

¹² CALS submission to the SRVAW, available at <https://www.wits.ac.za/media/wits-university/faculties-and-schools/commerce-law-and-management/research-entities/cals/documents/Submisison%20Rapporteur%20on%20violence%20against%20women%20CALS%20submission.pdf>

¹³ CALS "Sexual Violence by Educators in South African Schools: Gaps in accountability", May 2014, p.30ss

¹⁴ Asanda Benya, Women in Mining : A Challenge to Occupational Culture in Mines

expecting sex from female subordinates. In addition to dangers that are inherent in mining irrespectively of sex, women miners experience additional hardships largely unaddressed by mining companies, such as the lack of separate sanitation facilities, insufficient lighting and the confined location where women miners find themselves at time alone with a high number of male co-workers. So far, the response of the mining private sector has been that gender-based violence underground is a criminal justice matter and not an issue for which mining companies take responsibility. However, under both the principle of vicarious liability under the law of *delict* (which establishes the strict liability of one person for the *delict* of another) and the Health and Safety Standards under labour law, successful litigation could trigger the development of legislative provisions binding on multinational corporations to prevent sexual violence underground.

D. Harmful practices

21. Contradictions and tensions between the constitutional rights with respect to cultural rights¹⁵, and the rights that aim to protect women and girls from discrimination and violence were brought to the SR's attention. At the outset, the SR wishes to recall that South Africa has an obligation to ensure that all marriages, including customary marriages are entered into with the free, full and informed consent of both parties and that its legislation is in full compliance with the relevant obligations outlined in article 16 of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child and other international human rights standards that prohibit harmful practices.

22. The practice of *Ukuthwala*, although recently addressed by the Government was reported to continue in rural areas throughout the country, with higher prevalence in the Easter Cape and KwaZulu-Natal. In the way it is practiced nowadays, *Ukuthwala* often involves the abduction, kidnapping, assault and rape of girls and women to coerce them into child or forced marriage with older men and the payment of *lobola* (bride price) to the girls families. When victims of this harmful practice or their families report *Ukuthwala* to law enforcement officials or traditional leaders, often no action is taken on the wrongful assumption that *Ukuthwala* is a cultural practice and a customary law issue that should be settled between families. The SR welcomes the decision and subsequent appeal decision¹⁶ in the case of *Jezile v S and Others*, where the perpetrator was sentenced to 22 years of imprisonment. During the meeting with the Chapter 9 Institutions, , it was confirmed that culture and tradition cannot justify such practice which clearly violates the constitutional rights to dignity, freedom of choice, security of the person and education. In case of a victim aged between 12 and 16 years old, it constitutes statutory rape.

23. In the above mentioned case, the Court concluded that the facts amounted to a situation in which *ukuthwala* was abused to “justify patently offensive behaviour such as rape, violence and similar criminal conduct under the guise of *ukuthwala*” and that “it cannot be countenanced that the practices associated with the aberrant form of *ukuthwala* could secure protection under our law.” In light of recent public outcry, the South African Law Reform Commission (SALRC) was requested to carry out an investigation into the practice of *ukuthwala* to consider its impact on the girl child, the appropriateness and adequacy of the current laws and whether or not the laws uphold the human rights of the girl child¹⁷. At the time of the visit, the SALRC had published a Revised Discussion Paper

¹⁵ Section 30&31 of the Constitution

¹⁶ <http://www.saflii.org/za/cases/ZAWCHC/2015/31.html>

¹⁷ <http://www.justice.gov.za/salrc/dpapers/dp132-UkuthwalaRevised.pdf>

138 which positions itself in favour of a draft bill on the prohibition of forced and child marriages.

24. The SR observes that the Constitution outlaws all discriminatory practices through a qualification that stipulates that no person or institution exercising cultural rights may do so in a manner that is inconsistent with any provision in the Bill of Rights¹⁸. She further observes that, cases of *Ukuthwala* could be prosecuted under different offenses for example as kidnapping and as a statutory rape when the victim is a girl child between 12 and 16, both being crimes but bearing different sanctions. She is of the view that a new consolidated criminal offence and a prosecution consolidated practice would be beneficial as it would not only send a strong message but also clarify existing legislation, including in relation to the definition of child and forced marriage in particular as it relates to age of consent and criminalization of these acts in penal (statute) law.

25. The practice of forced virginity testing was reported to still happen in various situations as a strategy to reduce HIV/AIDS and teenage pregnancy. Recently, a mayor in the province of Kwazulu Natal decided to put in place a scholarship scheme for girls provided they remain virgins. The Children's Act of 2005 prohibits virginity testing of children under the age of 16. For girls above that age, virginity testing can only be performed if the child has given consent, after proper counseling and in a manner prescribed. The SR concurs with concerns raised by the CEDAW committee on this issue¹⁹, questioning, as in the case of the "maiden bursary" referred before whether it is consent or coercion when women and girls can only access scholarships based on them passing virginity tests.

26. The practice of female genital mutilation among migrant and refugee women was also reported to take place but its extent was largely unknown.²⁰

E. Violence against women and girls in informal settlements

27. The Rapporteur had the opportunity to observe the situation in some informal settlements. Beside Khayelitsha, she visited the outskirts of Diepsloot, an mixture of formal and informal settlement of approximately 200 000 inhabitants who, for the poorest of them, live in highly congested shacks, without electricity, running water, sewage, rubbish removal, street lights, tar roads, schools and police stations. It is estimated that half of Diepsloot population is unemployed. Due to the high density of these settlements and security concerns, the SR was advised not to enter the settlement. She however received various accounts of cases where young children, even babies, had been raped and in some cases even murdered, often by neighbours or relatives.

28. Perpetrators of such crimes were said to often be unemployed, drugs or alcohol users and most importantly, to have themselves experienced abuses at a young age²¹. Most of these cases go unreported, rape being considered even more acutely a family matter in informal settlements. When cases are reported, police was said not to be able to intervene. Reasons given ranged from the mere impossibility to enter these settlements due to their congestion, lack of staff, Diepsloot for example being policed by less than a dozen of police officers who had taken up function recently in a brand new police station, to lack of

¹⁸ Section 31(2) of the South Africa Constitution

¹⁹ CEDAW/C/ZAF/CO/4, para. 22

²⁰ Discussion with the Minister in the Presidency responsible for women confirmed that FGM is not a general problem but is happening in some cases among migrants and refugees community.

²¹ The demographic profile and psychosocial history of a group of convicted perpetrators of the rape of children under the age of three years, Amelia Ann Kleijn, 2010

vehicles and volatile security. Victims of VAW are left unprotected and unable to access any services providers within the settlement beyond the only counsellor who runs a Green Door helping abused women and children to report crimes against them to the police and to access healthcare.

29. A study on crimes and abuses has shown that one out of five children report being sexually abused by the age of 17 years old - a likely underestimated proportion.²² Additionally, when the abusers were asked about the reason for committing such act, the majority answered they did it because of boredom, or in order to have fun, and they widely believed that it was their right to do.

F. Violence against specific groups at risk, including women and girls with disabilities, elderly women and LGBTIs persons

30. Women and children with disabilities are at heightened risk to experience sexual or domestic violence for various reasons, including their low status in communities, their social isolation, their dependence on others and lack of knowledge about their rights. There is little information available about the violence they experience and its extent.

31. Children with disabilities (CWD) are 3 to 4 times more likely to be abused than children without disabilities. In townships in particular, many mothers of such children view such abuse as a tragic inevitability²³. In a joint submission²⁴ to the CRPD, the Centre for Applied Legal Studies and Afrika Tikkun illustrated with case examples how sexual abuse of CWD is underreported due to the incapacity of CWD to correctly recall and relay details of such abuse as complainants and witnesses. The few cases reported were said to have led to no conviction. As a result, there is a lack of jurisprudence on sexual abuse cases of CWD, on specific issues faced by complainants and witnesses and sentencing of Perpetrators. Additionally the few CWD who manage to access the judicial system remain intimidated by family members of the accused, together with the fear of the accused being released on bail and returning to their community. As a whole, police, health, social development and justice services are not disability sensitive. In its initial report to the CRPD²⁵, the Government did acknowledge most of these challenges.

32. Across the country patterns of rape of older women which results at times in death has emerged. The SR welcomes the recent life sentence against the rapist of an elderly woman and notes that such a decision can have a powerful deterrent effect²⁶.

33. Despite an explicit prohibition of discrimination based on sexual orientation in the Constitution, lesbian women and other sexual minorities are very vulnerable to extreme forms of violence purported at “correcting” their bodies, including the so-called “corrective rape” often accompanied by a particularly heinous murder. This type of extreme violence was reported on the rise, despite the difficulty to detect it since victims are unlikely to spontaneously report their sexual orientation and police do not record this information.

34. The SR welcomes the establishment of a National Task Team on Gender and Sexual Orientation Based Violence formed by government departments, Chapter 9 institutions and

²² 2015 University of Cape Town OPTIMUS Study

²³ <http://www.afrikatikkun.org/page/19/?orderby=date>

²⁴ http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/120725afrikapres_0.pdf

²⁵ CRPD/C/ZAF/1

²⁶ <https://www.npa.gov.za/sites/default/files/media-releases/2016%20April%2012%20-%20Life%20Sentence%20For%20Rapist.pdf>

CSOs which designed a National Intervention Strategy for LGBTI issues (2014-2017) with the aim to address so-called “corrective rape” and other forms of violence against LGBTI persons. In addition, a Rapid Response Team was established to attend to the pending cases in the criminal justice system. While there is no specific crime against specific persons or groups, the SR welcomes recent case law which shows that courts have started to address such crimes as hate crimes even in the absence of specific hate crimes legislation. In November 2014, the Johannesburg High Court issued a strong condemnation of the discriminatory attitudes that fuelled such crimes and pronounced a sentence of 30 years imprisonment against the murderer of a young lesbian. The Rapporteur welcomes ongoing discussion in relation to the possibility of drafting legislation on hate crimes.

35. Buying and selling sex are criminalized. There are no data available on the number of people being arrested and prosecuted under the relevant provisions of the SOA but the law was reported to be applied to women in prostitution only. The criminalisation of prostitution has driven women in prostitution underground, increased stigma and discrimination, created obstacles to access services and made them very vulnerable to violence, human rights violations and corruption. There has been evidence of police using the law against women in prostitution to commit abuses. As a result, women in prostitution, who often are ignorant of their rights, do not have access to justice. When they are arrested, they are often denied access to their medication (the HIV/AIDS prevalence is particularly high among prostitutes). There is also the stereotype by police that they cannot be raped. In terms of law reform process, the CGE has issued a position paper²⁷ laying out the reasons and evidence behind its recommendation that women in prostitution should be decriminalized

IV. Incorporation of the international and regional framework on violence against women

A. International and regional framework

36. South Africa is party to a number of core international human rights treaties, including the Convention on the Elimination of Discrimination against Women ratified without reservations and its Optional Protocol, the Convention on the Rights of the Child and its two Optional Protocols and the Convention on the Rights of Persons with Disabilities. It has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the International Convention for the Protection of all Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture. At the regional level, South Africa is, among others, party to the African charter on human and people’s rights, the African Charter on the Rights and Welfare of the Child Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

37. South Africa follows a dualist approach when it comes to the incorporation of international treaties into domestic law, hence requiring a domestic legislative act for such incorporation²⁸. Section 39(b) of the Constitution states that when interpreting the Bill of Rights, a court “must consider international law” and “may consider foreign law”²⁹. This

²⁷ http://www.gov.za/sites/www.gov.za/files/Commission%20for%20gender%20equality%20on%20se%20work_a.pdf

²⁸ www.saflii.org/za/journals/PER/2014/42.pdf

²⁹ SOUTH AFRICA CONST.ch.2,§12c.

clause has insured that South African jurisprudence develops consistently with emerging international human rights norms.

B. Observations of UN monitoring mechanism

38. In terms of its reporting obligation under CEDAW, at the time of the visit, the draft 5th periodic report was pending approval before parliament and had been published for comments. The SR welcomes the fact that since 2011, South Africa has acted on a number of CEDAW recommendations. She notes however, that on the two issues on which the Committee had asked a follow up within two years, i.e. a clear legislation on gender equality and a unified family code, the Government does not intend to implement these as explained in its follow-up report³⁰. As a result, there is no legislation embodying the principle of substantive equality between women and men, or prohibiting and sanctioning direct and indirect discrimination against women in accordance with article 1 and 2 of CEDAW what constitutes a lack of full incorporation of those provisions³¹.

39. The SR believes that the Committee's recommendation to consider elaborating a Gender Equality law and to have a unified Family code deserves further discussion. Both would have the potential to establish proper legal framework for the implementation of the constitutional and Convention's principle of gender equality and remove any remaining discrimination against women in matters relating to marriage and family relations, including the practice of polygamy in full compliance with article 16 CEDAW.

40. The Rapporteur notes that despite an early accession to the Optional Protocol to CEDAW in 2005, there are no individual cases which have been submitted under this procedure against South Africa. She further notes an overall insufficient knowledge from all stakeholders in relation to the CEDAW jurisprudence on VAW, and in particular on individual cases and decisions on inquiries on grave or systematic violations of women's rights.

41. Most recently, South Africa was reviewed for the first time and with a 14 years delay by the Human Rights Committee which, after acknowledging the considerable efforts invested, expressed its concerns "that gender-based and domestic violence remains a serious problem in the State party, that the conviction rate for such acts is low and that there is a lack of disaggregated data on the phenomenon. It is also concerned about the persistence of stigma against persons based on their real or perceived sexual or gender orientation, gender identity or bodily diversity, and that such persons are subject to harassment, acts of discrimination and sexual and physical violence"³².

V. States responses and measures to address violence against women

A. Constitutional, legislative and policy framework

1. Constitutional framework

42. Chapter 2 (sects. 7-39) of the Constitution which is regarded as one the most progressive in the world contains the Bill of Rights. While women are protected by this

³⁰ CEDAW/C/ZF/CO/4/ADD.1

³¹ CEDAW/C/ZF/CO/4,para 14

³² CCPR/C/ZAF/CO/1,para 20

Bill, including the rights to life, human dignity, freedom and security, including being free from all forms of violence from public or private sources, bodily and psychological integrity, they receive specific protection in section 9, entitled "Equality". Section 9 (3) states that "The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth." All of these human rights must be respected, protected, promoted and fulfilled by the state with respect to the individuals under its jurisdiction. The Constitution being the supreme law, any law that is inconsistent with the Constitution is invalid.

2. Most relevant legislation on VAW

43. The Domestic Violence Act (DVA) of 1998 replaced the Prevention of Family Violence Act and was meant to address high levels of domestic violence by, among other things, broadening the definition of domestic violence and recognising that abuse may take many different forms, including physical, sexual, emotional, psychological, verbal, or economic abuse; as well as intimidation, harassment, stalking, and damage to property. Furthermore, the DVA applies to people in a wide range of "domestic relationships" and includes same – sex relationships as well as extended families. The Act sets out what police must do when they arrive at a domestic violence scene and also provides for victims of domestic violence but also other persons on behalf of the victim to go to court and apply for protection orders. It allows for seizing any arms or dangerous weapons; having a peace officer accompany the complainant to a specified place to retrieve personal property; payments of emergency monetary relief, and restrictions on the respondent's contact with a child. Being gender neutral and insufficiently gender sensitive, the DVA disregards the structural inequality between men and women and focus on women and man equality as victims of domestic violence at the expense of women who are predominantly victims of such violence. Being a civil law, it does not typify domestic violence as a criminal offence.

44. The Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007 (SOA) criminalizes all non-consensual sexual activity, including marital rape and expands the definition of rape to include all forms of non-consensual sexual penetration. The definition of rape, albeit very short, does not require the use of force and puts consent at the centre of it, which is in line with internationally agreed definition of rape. The act provides various services to the victims of sexual offenses, including free post-exposure prophylaxis for HIV, and the ability to obtain a court order to compel HIV testing of the alleged offender. It created a number of new crimes, particularly with respect to children and people with disabilities. It also created the National Register for Sex Offenders, which records the details of those convicted of sexual offenses against children or people who are mentally disabled, and prevents those listed from working with either group. In 2013, the Constitutional Court struck down sections 15 and 16 of the SOA which made consensual sexual acts between children aged 12 and 15 a crime and which had been applied to prosecute pregnant girls and which exposed children to the criminal system, causing them serious trauma.

45. The PEPUDA seeks to advance equality in public and private life, provides a framework to tackle unfair discrimination, harassment and hate speech and prohibits unfair discrimination on any grounds. It explicitly prohibits VAW, FGM, and the prevention of women from inheriting property, any traditional, customary or religious practice that impairs the dignity of women and undermines equality. It also prohibits policies that limit women's access to land rights, finance or other resources and provides for the establishment of Equality Courts.

46. The Protection from Harassment Act, 2011 provides for the issuing of protection orders against harassment committed outside of a domestic relationship. It defines sexual harassment widely, and even includes electronic harassment.

47. Other relevant legislation includes the Employment Equity Amendment Act, 2013 and the Prevention and Combating of Trafficking in Persons Act, 2013 but their analysis go beyond the scope of the present report.

3. Policy framework

48. A Cabinet-level Inter-Ministerial Committee (IMC), chaired by the Minister of Social Development initiated the South African Integrated Programme of Action for 2013-2018 (PoA) addressing violence against women and children, but also violence against elderly women and lesbian, as well as people with albinism. The SR regrets that the PoA, which had been endorsed by Cabinet was never disseminated at the provincial or district level, does not have the visibility it would deserve and is not the result of a participatory process since CSOs were not consulted. Additionally, no information was available as to the budget for its implementation. The Minister of Social Development reported that the IMC would be rolled out to provincial and local levels and that the PoA was due for review in 2017.

B. Institutional framework: national machinery and independent institutions

49. The SR notes that the Department of Women (DoW) headed by the Minister of Women, established in May 2014 and placed within the presidential cabinet is, as reported by itself, still in a transitional period. Its mission is to accelerate socio-economic transformation and implementation for women's empowerment and participation through oversight, monitoring, evaluation and influencing policy. The SR welcomes the stated intention of the DoW to review, as part of its strategy, the national machinery architecture and assess its effectiveness. She notes that GBV is not part of the mandate of the new DoW but falls within the responsibility of the Department of social development (DSD). The DSD is actually the department responsible for the coordination of national gender-based violence programmes and strategies and with a mandate on victim empowerment programme and on partnerships with CSOs. The DoW has only an operational budget and, facing some financial constraints, had to decide on priorities. While appreciating the DoW leading role on women economic empowerment as a way to reduce their economic vulnerabilities and hence the vulnerability to GBV, there is a lack of clarity on coordination and division of labour between the DoW and DSD on issues of VAW.

50. The Rapporteur was told that the pandemic levels of violence against women could not be the sole responsibility of one government department. An integrated, coordinated, multi-departmental approach is required and in May 2012, the Cabinet-level Inter-Ministerial Committee ICM was established to look at the root causes of violence against women and children as well as a technical committee. It was reported that the IMC is not working efficiently and has only met few times since its inception.

51. The Parliamentary Portfolio Committees exercise oversight functions by requesting government departments to account on measures undertaken in relevant fields, including by requesting a report on implementation of legislation, conducting monitoring visits and holding public hearings. The most relevant Committees are the one on Women and the one on Justice.

52. South Africa has established a number of independent institutions, referred to as "Chapter 9 institutions" since they are constitutionally based in Chapter 9 of the

constitution, in order to secure, each within its own sphere of competence, the respect and fulfillment of human rights to all its citizens. The Rapporteur met with the Commission for Gender Equality, the Human Rights Commission, the Public Protector, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities and the Financial and Fiscal Commission. All recognized the need for more cooperation between themselves on different issues related to protection of women's rights and prevention of harmful practices and other forms of VAW.

53. The South African Gender Equality Commission³³ was established in terms of Section 187 of the Constitution in order to promote respect for gender equality and the protection, development and attainment of gender equality. The CGE produced a very important baseline report on measuring progress under CEDAW³⁴ and providing information on the implementation of the recommendations of the Committee, assess the government's compliance with and implementation of CEDAW and highlight some of the shortcomings of the government's report presented at the CEDAW Committee in 2011. Equally, following the visit of the former SRVAW in 1997, the CGE assessed the government compliance with her recommendations³⁵. The SR very much appreciates the CGE's intention to monitor follow up to the recommendations of this report.

C. Some inter-sectoral responses to VAW

54. The Government's strategy to reduce the high level of violence against women is focused on economic development, education and empowerment of women. Government officials have pointed out that the roots of many forms of violence against women lie in poverty in which a majority of the population lives and that education is a vital social vaccine to alleviate poverty and inequalities, and ultimately VAW.

55. The Sexual Offences Courts were re-established in 2013 by the Department of Justice and Correctional Services. These courts provide specialized victim-support services to reduce the chance of secondary trauma for victims, the case-handling time and improve conviction rates. They have specially trained officials and equipment, a special room for victims to testify, private waiting rooms for adult and child witnesses. At the time of the visit, there were 43th Special Offences Courts. The Rapporteur was informed that these courts have been a game changer: before their establishment there was a 48% conviction rate for sexual offenses cases whereas in 2015, the rate had reached 71%³⁶. The Department of Justice informed the Rapporteur that these courts would be rolled out as quickly as possible throughout the country in light of their huge potential. Draft Regulations³⁷ that should improve their efficiency should soon be adopted aimed to provide for protective measures for victims to be available at designated courts and d focus on the needs of persons with disabilities.

56. The Thuthuzela Care Centres (TCCs) are one-stop, integrated response for victims of sexual violence led at the time of the visit by the National Prosecution Authority's Sexual Offences and Community Affairs Unit (SOCA), in partnership with various donors and non-profit organizations. They are a critical part of the anti-rape strategy, aiming to

³³ <http://cge.org.za/>

³⁴ "CEDAW, are we there yet?" Measuring South Africa's Progress under the Convention

³⁵ E/CN.4/1997/47/Add.3

³⁶ The Rapporteur cautions against the misleading practice of reporting conviction based only on cases that went to trial, practice that she had experienced during her visit from state officials

³⁷ https://jutralaw.co.za/media/filestore/2015/10/Draft_Regulations_relating_to_Sexual_Offences_Courts_2015.pdf

reduce secondary trauma, increase conviction rates and reduce the length of time taken to finalize cases. They operate out of public hospitals in communities where the incidence of rape is particularly high. They are also linked to sexual offences courts when these exist. They enable rape victims to lodge a case with the police and receive counselling and medical care in one place. They have been hailed as a blueprint for responses to sexual violence. By the end of 2015, 55 TCCs were operational³⁸. The quality of care delivered at these centers was, however, said to be uneven and they often lack psycho-sociological services. The Rapporteur notes that most of their funding comes from private donors.

57. The Khuseleka or One-Stop Crisis Centres are one-stop centers offering a continuum of services to victims of all crimes and violence. It was reported that there were actually 8 of these centres in function, operated under the DSD.

58. In December 2011, the Minister of Police announced the reintroduction of the Family Violence, Child Protection and Sexual Offences Units (FCS Units) which provide specialised police responses to family and sexual violence. There were 176 units nationwide in mid-2015³⁹. However, some of these units perform poorly for reasons such as poor management, understaffing, low morale and burnout⁴⁰.

59. The Rapporteur regrets the uneven geographic availability and distribution of these inter-sectoral responses to VAW as well as their uneven quality and range of services provided. In particular, most of these centers are not available to women and girls living in informal settlements and rural areas. When victims were able to access and benefit from TTCs, FCLs and sexual offenses courts throughout the justice's chain, convictions rates have significantly improved.

VI. Gaps and challenges

A. Prevention

1. Collection of data and statistics on vaw

60. There are no official data on femicides and other forms of violence against women and massive under-reporting of vaw. The figure of 1 out of 9 cases of rape being reported was accepted by all stakeholders, including state officials. There are also serious flaws with the recording of crimes under the SOA by the SAPS. Also, the last crime statistics released in September 2015⁴¹ only listed "sexual offenses" and were not disaggregated in terms of types of sexual offenses under the SOA, such as rape or sexual assault. While these statistics showed a decrease from 56 680 in 2014 to 53 615 in 2015, it is difficult to draw any conclusions in relation to specific offenses. It therefore cannot be established that rape has decreased.

61. An additional and serious impediment on data collection is the performance management system of the SAPS which has set the reduction of violent crime by between 4% and 7% as a target, creating a contra effect and disincentive for police to record all violent crimes reported to them⁴².

³⁸ http://shukumisa.org.za/wp-content/uploads/2015/11/Shukumisa_TCC-Report.pdf

³⁹ <http://www.saps.gov.za/newsroom/msspeechdetail.php?nid=4936>

⁴⁰ Khayelitsha Commission of Inquiry

⁴¹ http://www.saps.gov.za/resource_centre/publications/statistics/crimestats/2015/crime_stats.php

⁴² Submission from the Institute for Security Studies (ISS)

62. Domestic violence is not recorded by the police as a specific crime category and therefore there are no statistics available. When cases of domestic violence are reported to the police, they are recorded under a range of different categories such as assault, malicious damage to property, pointing a firearm, murder etc. The DVA does make it a legal requirement for police stations to keep a register of all cases of domestic violence reported. However, the implementation of this requirement across stations is erratic at best and non-existent at worst. A 2014 audit conducted by the Civilian Secretariat for Police (CSP) found that only two of 145 police stations were fully compliant to the Act.⁴³

2. Underreporting of cases of VAW

63. There are significant societal and institutional barriers to reporting gender-based violence. Such violence is still very much considered a private matter and victims have to co-exist with perpetrators because of the link to the family or community setting. Victims blame themselves and fear reprisals from the perpetrator that they might know (intimate partner, family member, friend, neighbour, teacher or other community leader) or fear stigmatization from their family, friends or community. They may not have an easy access to a police station or medical facility, lack faith and trust in the police and justice system and fear mistreatment or secondary victimization by the police. This all creates powerful disincentives for victims to report to the police. Cases of police members perpetrating the very same GBV they are mandated to fight play also a strong dissuading factors have also led women victims to distrust the police and even to be afraid of it, causing further underreporting⁴⁴.

3. Lack of a national strategic plan on VAW

64. Several interlocutors compared South Africa's experience with HIV and its adoption in 2011 of a National Strategic Plan (NSP) on HIV, STIs and TB as the way forward to gain both political and funding commitment at the highest level. The following features would be pre-requisites for any NSP on GBV: a fully funded plan committing adequate resources, developed through an open, inclusive and consultative process which would belong to all segments of the population and all sectors, with an independent multi-sectoral oversight and accountability mechanism to monitor its implementation. The SR believes that such a NSP would demonstrate the serious commitment towards the elimination of GBV and supports the call for its establishment as the roadmap needed to effectively combat to this pandemic. Such NSP should integrate implementation of commitments based on the international instruments like the CEDAW convention, the DEVAW, the CEDAW General Recommendation on article 19 as well as relevant part of the Beijing Declaration and Platform for Action as well as obligations based on the Constitution, the DVA and other relevant legislation.

B. Protection (services providers)

1. Quality of health care and forensic examination

65. The policy and guidelines for the treatment and care of victims of sexual offenses are key as they guide health providers on the type of health care needed and how to conduct forensic examinations. However, these documents date back from 2003, before the

⁴³ http://pmg-assets.s3-website-eu-west-1.amazonaws.com/141105research_unit_dva_compliance.pdf

⁴⁴ See <http://irr.org.za/reports-and-publications/occasional-reports/files/broken-blue-line-2-february-2015.pdf>

introduction of the SOA. They do not reflect the latest developments in the medical treatment and psychological care of victims of sexual crimes.

66. The quality of treatment received in health facilities varies. Some health care workers do not have the appropriate post-rape care knowledge and are inadequately trained to collect forensic evidence. A study found that in 41.5% of cases, the concluding statement related to the gynaecological examination was missing from the form describing the victim's forensic examination⁴⁵.

2. Funding of CSO

67. The SR notes that CSOs not only have been working in close cooperation with the Government but have also provided for the majority of services without receiving appropriate compensation for a service from the Government. For example, most post-rape care is provided by CSOs which support victims in the immediate aftermath of rape, assist with adhering to post exposure prophylaxis to prevent HIV infection, counselling and preparation for testifying in court, as well as accompaniment to court⁴⁶.

68. Funding of CSOs, including the ones running shelters, is provided by the DSD which covers only a small percentage of the organisation's operational costs. CSOs reported that the Government had been prioritizing prevention over services delivery, and that the DSD funding had been decreasing.

3. Lack of shelters/second-stage housing

69. The DSD reported that there were 88 shelters in total in the country, mostly run by CSOs. Beside a clear insufficient number of shelters, in particular in rural areas and in/around townships and informal settlements, existing shelters struggle with funding and can only rely, in average, on 10% coverage of their operating costs by the DSD. Some important discrepancies exist in the funding allocated between and within provinces as well as in the range and quality of services delivery among shelters. For example, most shelters are not equipped to accommodate mothers with children or with boys older than 7 years or children with special needs or age or women drug users.

70. There is also an acute need for longer-term accommodation for abused women once they leave first stage shelters. Unfortunately, second-stage housing is virtually non-existent, at the exception of a few noteworthy projects such as a pilot programme run by Nonceba Family and Counselling Center in Khayelitsha which had started at the time of the visit. More permanent housing arrangements are also almost inexistent.

C. Prosecution

1. Shortcomings in the criminal justice system's response

71. The SAPS agents are the first responders to GBV. They operate in a difficult context and are confronted with many challenges, including the extreme level of everyday violence and the lack of human resources and equipment. 941 victims friendly rooms have been established in police stations throughout the country. However, information received by the Rapporteur concurs with the findings of the Civilian Secretariat for Police that not all of them are functional or resourced.

⁴⁵ <https://www.issafrica.org/crimehub/uploads/Shukumisa-health-scorecard.pdf>

⁴⁶ <http://www.shukumisa.org.za/2015/11/16-days-of-discontent-day-7-undervaluing-care-work/>

72. In relation to conduct of the police, and while good services does exist within the SAPS, the Rapporteur heard repetitively that women seeking protection had been turned down and told to go back to their abusive partner or communities. Some police members do not believe rape survivors, especially when they are young, and treat them badly. Treatment of groups of women at heightened risk of GBV, including women and girls with disabilities, LGBTI persons, prostitutes, refugees and undocumented migrants has been reported to be even more discriminatory causing secondary victimisation.

73. Other challenges identified with respect to the police actions are the lack of GBV specific training of police, in particular with respect to victims' rights and the procedure to be followed to bring cases forward. Government officials reported that members of the FCS units were receiving basic training on the bill of rights, only 5 days training were devoted to the DVA and the SOA. The poor quality of investigations due to the lack of availability of qualified investigators, including when FCS unit exit, and the insufficient referral of victims to service providers were also raised.

74. At the level of prosecution, the SR was made aware of a number of obstacles. The pressure to deliver convictions allegedly placed on prosecutors was reported to have led some of them to prioritize cases deemed to have more chances to reach a conviction sentence, pushing aside other cases. Difficulties faced by victims whose cases have been repetitively postponed, placing on them an additional emotional and financial burden were also reported.

75. At the level of the judiciary, there are additional obstacles that a victim needs to overcome. Among these, the non-victim friendly conduct of the hearing, the lack of security of the victim who has to face the perpetrator, secondary traumatization but also the use of gender stereotyping by magistrates leading to leniency towards the perpetrator.

2. Specific Gaps in the implementation of the DVA and the SOA

76. State officials have recognized the need to improve police response to domestic violence and in order to do so, have engaged in a thorough review of its implementation. There has been a chronic lack of budgeting for implementation of the DVA since its enactment in 1998 what significantly weakens protection provide by this law and represents a human rights violation by the State.

77. On the other hand, there has been some improvement in the reporting by police of domestic violence. The CSP which provides civilian oversight of the Police Service, is in charge of monitoring police stations' compliance with the DVA. Police non-compliance can have extremely serious consequence, as shown in an emblematic case where the victim, despite having obtained a protection order prohibiting her abusive husband from entering her home was raped by him. The victim successfully brought her case to court which confirmed that the failure to arrest the offender was the factual and legal cause of the rape and that it extended legal liability to police members who had failed to give effect to a protection order⁴⁷. This case is emblematic of the lack of appropriate follow up by police to enforce protection orders which was reported to the Rapporteur throughout her visit.

78. The Rapporteur notes that police called at the scene of an incident are not required to conduct a risk assessment and risk management while this could provide invaluable background information to understand the circumstances, to manage the lethality risk and if necessary to provide coordinated safety and support.

⁴⁷ White v Minister of Safety & Security and Others

79. SAPS trainings on domestic violence have significantly increased but seem to have failed so far to address adequately the psycho-sociological impact of VAW on victims. The Rapporteur stressed the need for training programme to be assessed and was pleased to learn about the first completion by police of the Domestic Violence Learning Programme in 2014/2015 which will inform about the quality of the training.

80. In 2013/2014, 255 395 protection orders were applied for through the magistrate courts, but only 88 504 were ultimately made final, which represent 28%⁴⁸. The Rapporteur was apprised of some issues faced by applicants of protection orders. When a victim applies for such order, the court decides whether to grant an interim protection order or to merely issue a notice informing the respondent to appear in court. In many cases, this means that the victim is sent back to a violent home without immediate effective protection. While the DVA encourages issuance of protection order with as little delay as possible, it was reported that the speed at which they are issued varies greatly depending on the courts. Another issue is the false assumption by some police officers that at the time of the serving of the protection order, the applicant has to be present for identifying the respondent, while this is not a requirement under the DVA. Personal views and beliefs of magistrates were reported to come into play negatively towards the granting of protection order, as some view them as tearing families apart. Additionally, magistrates' behaviors are not always appropriate, intimidating applicants and questioning their motives. In case of the breach of a protection order, police officers often are not aware that they can arrest the perpetrator on site and that the breach constitutes in itself a criminal offence under the DVA.

VII. Conclusions and recommendation

81. **South Africa has a progressive Constitution, solid legislation such as the DVA and the SOA and policies to deal with gender-based violence. It has also adhered to CEDAW, its OP and regional instruments like the Maputo Protocol. Despite all this there have been gaps in incorporation and/or lack of giving full effect to the principle of substantive gender equality and prohibition of direct and indirect discrimination against women as well as a lack of a holistic and comprehensive legal and policy approach to prevent and combat vaw. Gender-based violence continues to be pervasive and a systematic women' human rights violations.**

82. **Based on the above findings, and in a spirit of cooperation and dialogue, with the Government, the SR offers the following recommendations:**

1. Law and policy reform

(a) **Consider renewing efforts to implement the CEDAW recommendations on a Gender Equality Law and on a unified family law which would establish a strong legal framework for the implementation of the constitutional and Convention's principles of gender equality and non discrimination and repeal any remaining discrimination against women in matters relating to marriage and family relations, including the practice of polygamy in full compliance with article 16 CEDAW;**

(b) **Consider adopting a new consolidated criminal offence to criminalize Utukhwa and a prosecution consolidated practice;**

(c) **Consider enacting a hate crime legislation which would enable to capture both the hate dimension of crimes and the sexual orientation of LGTBI victims of GBV;**

⁴⁸ <https://www.issafrica.org/crimehub/uploads/Shukumisa-16-Days-fact-sheet-DoJ.pdf>

(d) review relevant legislation and regulations in force to decriminalize women in prostitution and take a comprehensive approach to addressing the question of prostitution, including exit programmes for women who wish to leave prostitution

(e) Develop and adopt urgently, in an open, inclusive and consultative process, a National Strategic Plan on GBV with a set of clear strategic priorities and core measurable goals, adequately funded and led by an independent multi-sectoral oversight and accountability mechanism to monitor implementation progress; or alternatively, urgently disseminate and implement at the provincial and district levels the PoA, in partnership with CSOs, widely consult around its upcoming review which should focus on results-oriented measures and allocate sufficient for its implementation.

(f) Provide urgently adequate budgeting for implementation of key measures in relation to implementation of the DVA;

(g) Consider examining the feasibility of regulating the availability of alcohol as a mean to help reduce GBV;

(h) In light of the extreme levels of VAW in informal settlements, such as in Diepsloot, and others alike, consider establishing national inquiries on such violence and the general situation of women and girls in these settlements; also adopt a specific National Action Plan with appropriate recommendations on prevention and elimination of VAW that would take into account the specificities of such informal settlements including safety, housing, education and health needs of women and girls specifically.

2. Investigation, prosecution, support services and protective measures

(a) Continue to increase the number of women police officers

(b) Study the efficiency of protection orders in order to improve them and to make them immediately available to the victim of vaw at risk of new violence. In particular, police should be instructed to conduct risk assessment and risk management to protect victim of immediate treats and to issue interim protection order.

(c) Enforce the DVA requirement to keep a register of all cases of domestic violence reported to the police across all police stations, to make station commanders accountable for the failure to do so and to request police to release detailed crime statistics on domestic violence cases as gathered from the registers;

(d) Operate a shift in SAPS so that it is instructed to encourage reporting of VAW and be assessed on the basis of the quality of services provided to victims and correspondently too remove the element of police performance indicators which penalizes any rises in the reporting of sexual offences;

(e) Improve the training of the police on the response to, management of, and investigation of domestic violence and sexual offences and to ensure that each training is being followed by a monitoring and evaluation process

(f) Ensure that the criminal justice system has the capacity – in human resources, skills, expertise, and funding – to deal efficiently and effectively with GBV, and in order to do so

- make appropriate budget allocation to roll out the victim friendly rooms in police stations, the TTCs, FCLs and Sexual offenses courts in particular in rural areas and informal settlements;

- ensure the collaborative model of TTCs and sexual offenses court working in tandem which has led to increased conviction rates;
- require the NPA to require from prosecutors who abandon prosecution of a case to provide automatically for the reasoning to the complainant;
- (g) With respect to the judiciary:
 - provide mandatory training to, members of the judiciary, including prosecutors and judges, in particular at the magistrate courts level, on the CEDAW Convention and its Optional Protocol, General Recommendations and the Committee jurisprudence on VAW and increase mandatory training on GBV and gender-based stereotypes in general and on key national legislation, in particular the SOA and the DVA and its range of protective measures;
 - ensure wide dissemination of progressive judgments, including from the Court of Appeal and Constitutional Courts, and jurisprudence from CEDAW;
- (h) In relation to sexual violence in schools, require the DBE and SACE to act jointly in disciplining educators who have perpetrated such acts and to take disciplinary sanctions against teachers or principals who fails to report cases; make the list of sexual offenders teachers available to all public and private schools and design nationwide programme on sexual violence in schools and comprehensive human rights education;
- (i) Improve the quality of services provided by police to victims of sexual and domestic violence;
- (j) Scale-up delivery and state funding of services for victims, and in particular increase number of social workers who have been trained on GBV and psycho- trauma counseling;
- (k) Establish more shelters, in particular in rural areas and informal settlements, including shelters that can accommodate women or their children with disabilities, LGBTI persons, and mothers with sons of 6 years and above.
- (l) Implement the recommendations of Chapter12 of the National Development Plan addressing community safety and improving the criminal justice system and report regularly on their implementation status;
- (m) Prioritize the needs of VAW survivors in allocating public housing and in access to transitional housing;
- (n) Encourage further government and CSOs initiatives like Sonke Gender Justice aimed at engaging men in challenging rigid ideas about masculinity and encourage them to become agents of change;
- (o) Increase the use of social media for educational and awareness-raising purposes, through for examples hubs in communities, aimed at both community leaders and the general public, in order to ensure that they understand that all forms of violence against women are unacceptable and at women and girls to enhance knowledge about their human rights.

3. National mechanisms

- (a) Strengthen, clarify roles and responsibilities and ensure adequate resources for state institutions to carry out their mandate with respect to gender equality and VAW, in particular the DoW and the DSD;

(b) Ensure that these state institutions cooperate among themselves and work hands in hands with CSOs;

(c) Strengthen the role and efficiency of the ICM so that it can discharge its function of co-ordination of policies and measures to prevent and combat violence against women effectively and ensure that it engage meaningfully with CSOs or alternatively establish an adequate coordinating and monitoring mechanism inclusive of CSOs to effectively prevent and eliminate all forms of violence against women;

4. Collection of data and prevention of VAW:

(a) Expand the collection of data to all forms of VAW, including femicides, domestic violence and all all types of sexual offenses under the SOA. Data should include details on sex, age, sexual orientation, disability as well as relationship between perpetrator and victim.

(b) Encourage the establishment of “femicide watches” in each of the 9 provinces and a “femicide watch” at the national level and analyse each case of femicide in order to identify any failure of protection with a view of improving and developing further preventive measures. The Gender Equality Commission should be entrusted with the compilation of data from the provincial level and be responsible for the national femicide watch.
