



**THE PRESIDENCY
OFFICE ON THE STATUS OF WOMEN**

Private Bag X1000, Pretoria, 0001, Tel. +27 12 300 5491 Fax: +27 12 326 4176

**South Africa's Input to the United
Nations Secretary-General's In-
Depth Study on Violence against
Women**

1. INTRODUCTION

South Africa's contribution to the United Nation's Secretary-General's Study on all forms of manifestations of violence against women draws on South Africa's input to the Beijing +10 Report on Strategic Objective D.

General Assembly Resolution 58/185 of 22 December 2003 obliges the United Nations Secretary-General to conduct an in-depth study on five fields, that is statistics, causes, consequences and costs of violence against women, and best practice examples.

The South African Beijing +10 Progress Report on the Implementation of the Beijing Platform for Action focussed on the above areas particularly:

- a) the nature of statistics on violence against women available to South Africa
- b) Research undertaken to understand and address the causes of violence against women and children, as well as
- c) Best practices in the South African context.

Among the "next steps" for the South African Government is a more coordinated strategy at the highest level of planning to address violence against women and children which will be elaborated on in the National Gender Programme of Action on Women's Empowerment and Gender Equality 2005-2015.

A challenge for the South African Government remains that of attaching a monetary value to violence against women.

The section below is based on the input on violence against women as outlined in the South African Report.

2. VIOLENCE AGAINST WOMEN

The South African Beijing +10 Progress Report provides input on the following strategic objectives as outlined in the Beijing Declaration and its Platform for Action:

1. Take integrated measures to prevent and eliminate violence against women
2. Study the causes and consequences of violence against women and the effectiveness of preventive measures
3. Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking

2.1 POLICY AND CONTEXT

The South African Government is committed to ensuring a life free from violence for all, especially women and children. This is in compliance with the constitutional provisions on equality, human dignity, privacy and freedom and security of the person. The commitment is also informed by the country's obligations in terms of the BPA, CEDAW, the Vienna Declaration on Human Rights and related human rights norms.

In pursuit of this commitment, South Africa has, in the last ten years, prioritised violence against women and children and treated it as a serious crime and a violation of human rights.

However, the South African government has found that developing a woman sensitive response to violence is particularly challenging due to, amongst other things, the legacy of the violent *apartheid* state that was not people centred or responsive to the needs of women, particularly those oppressed on the basis of race, gender and class.

Another challenge has been the balancing of limited resources between gender transformation, meeting all basic needs and addressing other transformation imperatives. Some of the resource challenges have been ameliorated through partnerships with civil society, particularly NGOs and the business community.

At an operational level, Government has endeavoured to implement an integrated approach which prioritises prevention, prosecution, rehabilitation of offenders and victim support. This is in recognition of the multi-causal and multi-dimensional nature of violence against women.

Measures aimed at ending violence against women have been informed by an appreciation of the fact that the intersection of inequality based on race, gender, age, disability, class and related factors renders black women, children, elderly women, with disabilities and poor women especially vulnerable to violence and yet the inherited system did not prioritise their needs.

Measures aimed at ending violence against women further take into account the relationship between poverty and crime, including violence against women, and endeavour to incorporate development initiatives and related poverty eradication measures in the integrated response to violence against women.

2.2 INTEGRATED MEASURES TO PREVENT AND ELIMINATE VIOLENCE AGAINST WOMEN

The Constitution specifically denounces sexism in its statement of the nation's founding values (section 1) while highlighting the achievement of gender equality as one of the constituent elements of the new democracy that it seeks to lay a foundation for (section 1 (a) and section 9 of the Constitution). It guarantees women the right to freedom and security of person, which includes freedom from violence. In addition, the country's political and judicial leadership has been united in condemning violence against women at every possible opportunity and calling upon all actors in society to join hands towards eradicating violence against women.

For example, in his keynote address at the launch of the annual 16 Days of Activism on no Violence against Women Campaign, in 2004, President Thabo Mbeki said:

"...The success of the previous campaigns has been attributed to the formation of strategic partnerships between government, civil society, business and a variety of other sectoral partners – all united by a common cause: to eradicate the abuse of women and children....We need to make each one of us understand that human development and especially the development of women and children is in the best interests of all – men and women alike....Together we can and must defeat the demon of woman and child abuse. This we will do, if we stand together and work together..."¹

2.2.1 Development of an Integrated Response to Violence Against Women

Measures that have been implemented by the South African government, in the last ten years, to address violence against women, have sought to achieve an integrated response to violence against women. This entails multi-sectoral strategies that include: prevention through addressing causal and influencing factors; encouraging reporting and ensuring that the justice system processes relevant cases effectively; providing victim support and responsive justice processes; and ensuring that offenders are rehabilitated to avoid recidivism. Presenting an integrated response to violence has not been easy as the inherited justice was severely fragmented, inefficient and not attuned to the needs of women as victims. Furthermore, although offering interrelated services, there was no joint planning and integration of strategies and services in response to violence against women between the police, prosecution, social development, health services courts and correctional services. The absence of integrated services undermined a holistic response and accordingly, effectiveness in dealing with violence against women.

The development of an integrated response to violence against women is an evolving phenomenon that has gone through various stages and is still being improved on a day to day basis. Measures that have significantly contributed to

¹ President of South Africa The Hon Thabo Mbeki, the Opening Ceremony of the 16 Days of Activism Campaign, Motherwell, November 25, 2005.

the crystallization of an integrated response to violence against women have included the following:

- ξ Broad Policy Framework: National Crime Prevention Strategy(NCPS) and Justice Crime Prevention Strategy(JCPS), Prevention and Eradication of Violence Against Women Addendum to the SADC Declaration on Gender and Development
- ξ Law Reform: General, Rape, Domestic Violence, Child Abuse, Other
- ξ Administrative Measures
- ξ Institutional Mechanisms
- ξ Victim Empowerment
- ξ Integrated Planning
- ξ Education and training of Service Providers
- ξ Customer Service and sanctions
- ξ Shelters
- ξ Public Education and Awareness
- ξ Alternative Dispute Resolution

The key measures that have been implemented under each of the above is briefly discussed in the following:

2.2.2 Broad Policy Framework for Dealing with Violence against Women

The policy framework has, as indicated in the above, evolved over the years, maturing together with government insights on the nature and more effective ways to combat violence against women. The key policy instruments that have shaped South Africa's response to violence against women are the following:

a) National Crime Prevention Strategy (NCPS)

The NCPS was established in 1996 as a strategy to address the fragmented approach of crime prevention by the Criminal Justice System Departments. The NCPS provided a co-ordinated and integrated approach to the administration of Justice. The NCPS placed violence against women and children amongst the national priority crimes. It further integrated the response to violence against women in its four pillars, namely: (1) Transformation of the Criminal Justice processes, including the victim empowerment programme; (2) Reducing Crime through Environment Design; (3) Public values and Education; and (3) Trans-National Organised Crime and Border Control and Ports of Entry, including trafficking of women and children.

As can be gleaned from the above, achieving an integrated response to violence against women, including trafficking in women, was integrated in the objectives of

the NCPS. The evolution of crime prevention approaches in the last few years have given birth to the Justice Crime Prevention Strategy (JCPS)

b) Justice Crime Prevention Strategy (JCPS)

The JCPS was established in 1999 as an improvement on and with a view to broadening the focus of the National Crime Prevention Strategy to also cover issues beyond the criminal justice system. The main objective of the JCPS is to focus government efforts and resources jointly in addressing the incidents of crime, public disorder, inefficiencies in the justice system and all those aspects of society that have the most negative effects on development.

The JCPS cluster identified several additional strategic interventions over and above the NCPS Pillars. Its areas of focus are the following:

- ξ Social Crime Prevention
- ξ Prosecution led and intelligence driven prosecution;
- ξ More effective border control
- ξ Alternative containment mechanisms and reduction of awaiting trial prison population
- ξ Human Resource Development
- ξ Quality Service Delivery
- ξ Private-public partnership.

The JPS framework incorporates measures that seek to achieve an integrated response to violence against women. The following diagram summarises the JPS integrated approach to violence against women.

Programmes to address Violence against Women & Children



The above diagram demonstrates that the refined integrated approach to violence against women covers all spheres of life that impact on violence against women. This includes environmental redesign, poverty alleviation and moral regeneration. At the level of role players, the model recognises that actors in all areas in society need to be mobilised to play a role in the prevention and eradication of violence against women, including the Girl Child.

With regard to the prioritisation of crimes, South African measures on violence against women have up until now, given priority to domestic violence and sexual offences with emphasis on rape. For example, the JPS integrated response to violence against women incorporates an Anti-rape strategy. The elements of the rape strategy are briefly discussed below.

a) Anti-Rape Strategy

South Africa is in the process of finalising an Anti-rape strategy. A product of the JPS integrated response to violence against women, the Anti-rape strategy is being developed by an Interdepartmental Management Team covering Social Development, South African Police Services, Justice (Mainly Prosecutorial services), Health, Education, Correctional Services, Treasury, and Communications.

In addition, Anti-Rape Guidelines have been developed for the South African Police Services.

2.2.3 Prevention and Eradication of Violence against Women: Addendum to the SADC Declaration on Gender and Development

South Africa has committed itself to the implementation of the *Prevention and Eradication of Violence against Women: Addendum to the SADC Declaration on Gender and Development, 1998*. This regional instrument that has contributed immensely to the implementation of measures aimed at achieving an integrated response to violence against women.

South Africa and other SADC Member States developed the *Addendum* as a framework for an integrated response to violence against women at national and regional levels. South Africa played a central role in the development of this instrument. Initially conceived as a Declaration and adopted as such by SADC Ministers of Justice and Women Affairs in Durban South Africa, 1998 (March 08, 2008, the instrument was ultimately adopted by SADC Heads of State as an *Addendum* to the *SADC Declaration on Gender and Development*. SADC Heads of state have since resolved to explore the idea of turning the *Addendum* into a legally binding protocol.

South Africa immediately committed itself to the implementation of the addendum. This involved a conference of commitments where all key role players in government, including ministers and in civil society came together to integrate implementation plans. The Monitoring instrument that accompanies the addendum, which was initially developed by South Africa and later modified by the secretariat, presents an excellent framework for implementing and monitoring an integrated response to violence against women. According to the framework provided by the addendum, measures aimed at preventing and eliminating violence against women should give priority to the following:

- ξ Legal and Policy Framework
- ξ Social, Economic, Cultural and Economic Measures
- ξ Services and Administrative Measures
- ξ Integrated Approach
- ξ Budgetary Allocations

2.2.4 Law reform in response to violence against Women

In pursuit of the constitutional imperatives on violence against women, the SADC Addendum on Violence Against Women and Children, the BPA and relevant international human rights norms, South Africa has implemented a comprehensive law reform programme. The law reform programme has also sought to strengthen the integrated response to violence against women. As is the case with the rest of the integrated response, law reform measures have given priority to sexual offences and domestic violence. Considerable attention

has also been given to crimes such as trafficking in women and children and child pornography. The specific areas that have been targeted by the law have included bail, sentencing, victim empowerment and integrated responses.

a) Criminal Justice System

Specific laws that have been passed or changed in the last five years include the following:-

ξ ***Domestic Violence Act , No 116 of 1998***

This Act sought to strengthen protection against domestic violence by improving on matters that were initially covered in the *Prevention of Family Violence Act of 1993*. The new provisions include broadening the domestic relationships and the forms of violence that are covered. With regard to the forms of violence, this includes emotional, economic, threatened violence and stalking. The main strength of the new law lies in protection orders against perpetrators and the possibility of imprisonment of recidivist offenders.

ξ ***Sexual Offences Law Reform***

Law reform relating to sexual offences has mainly targeted loop-holes in the law that aided perpetrators to walk free or receive light sentences. One such loop-hole was the “*cautionary rule*”. The cautionary rule, which was a rule of evidence that was employed by courts to treat the evidence of rape victims or survivors with circumspection as women were considered to be unreliable in these situations, was abolished during the first few years of our democracy.

Sexual offences law reform has also sought to restrict the release, on bail, of alleged perpetrators who pose a threat to the victim and or other witnesses. Law reform in this area has also dealt with the tightening of sentencing for rape offenders following its classification as a serious crime.

Specific law reform instruments that have dealt with or are in the process of dealing with the above and related matters include the following:

ξ ***Criminal Procedure Second Amendment Act No 75 of 1995***

This Act deals, amongst other things, with Bail Guidelines that cover violence against women.

ξ ***Criminal Procedure Second Amendment Act No 85 of 1997***

This Act tightens bail provisions relating to serious crimes, including violence against women.

§ ***Criminal Law Amendment Act No 105 of 1997***

This Act deals with, amongst other things, the imposition of minimum sentences in serious offences, including rape.

§ ***Sexual Offences Bill, 2003***

The Bill provides comprehensive law reform provisions on rape and related sexual offences. This includes the definition of rape, considerations to be made in sentencing and provisions relating to combating child abuse. The Bill broadens the definition of rape to cover other forms of sexual violence that are experienced as rape by the victim or survivor, provides a definition of rape that transcends anal and vaginal penetration and expands the concept of coercive circumstances beyond physical harm

§ ***SALRC Investigation on Stalking.***

The SALRC is investigating endeavours to address gaps in the legal framework with regard to stalking relating to effectiveness and timeliness in protection of victims. The latest law reform instrument in this regard is a ***Discussion Paper on Stalking (SALRC Discussion Paper 108 (Project 130))***.

§ ***Film and Publications Act No 65 of 1996***

The Act provides for the establishment of a Film and Publications Review Board whose role includes combating child pornography.

b) Law Reform Targeting Social Economic and Cultural Life

As part of the integrated response to violence against women, South Africa has also paid attention to law reform beyond the criminal justice system. This has covered issues such as workplace laws maintenance, recognition of customary marriages, administrative justice, access to information and civil law. Key measures that have been implemented in the last ten years are outlined in the following:

c) Sexual Harassment in the Workplace

Laws passed to protect women (and others) against violence in the workplace include the Employment Equity Act 55 of 1998, which recognises the harassment of an employee as a form of unfair discrimination. This is accompanied by the *Code of Good Practice on the Handling of Sexual Harassment* issued in terms of the Labour Relations Act and the *Code of Good Practice on Integrating Employment Equity in Human Resource Practices*.

d) Civil Justice

- ξ *The Promotion of Equality and Prevention of Unfair Discrimination Act, No 4 of 2000*. In addition to regarding gender based violence as a form of discrimination against women, the Act provides that: “if it is proved in the prosecution of any offence that unfair discrimination on the grounds of race, gender or disability played a part in the commission of the offence, this must be regarded as an aggravating circumstance for purpose of sentencing”.²
- ξ *Promotion of Administrative Justice Act No 3 of 2000*, which provides for administrative justice rights and enforcement mechanisms thereof;
- ξ *Promotion of Access to Information Act No 2 of 2000*, which provides avenues for accessing information and can be used by women to facilitate the enforcement of their rights relating to public service delivery;
- ξ *The Employment of Educators Act, No. 53 of 1998, amended in 2000*, which explicitly makes sexual harassment a form of serious misconduct (Section 17)
- ξ *The South African Schools Act, No. 84 of 1996*, under which sexual harassment constitutes misconduct
- ξ *Recognition of Customary Marriages Act No 120 of 1998*, recognises customary marriages, giving them equal status to civil marriages; protects women’s legal status and their contractual rights and states that men and women have equal shares in matrimonial property.

2.2.5 Judicial Responses to Violence against Women

The courts have also joined in to condemn violence against women and to issue stern sentences. An example in this regard is **S v Jackson 1998(1) SALR 470 SCA**. This is a case of appeal where the rape perpetrator appealed against the conviction of the Magistrates’ Court on the basis that the Magistrate did not apply the cautionary rule when convicting him. The Court held that the cautionary rule was unwarranted by law and reason, and the Court held that the cautionary rule

² This provides a partial response to hate crimes against women and other groups.

in sexual assault cases is based on an irrational and outdated perception. It unjustly stereotypes complainants in assault cases (overwhelmingly women) as particularly unreliable. In our system of law, the burden is on the state to prove guilt beyond reasonable doubt - no more and no less. The Court held that the magistrate was not obliged to apply such rule and dismissed the appeal against the conviction.

In S v Chapman 1997 (3) SA 341, the Supreme Court of Appeal (SCA) held that rape constituted “a humiliating, degrading and brutal invasion of the privacy, the dignity and the person of the victim...” and that women were entitled to the protection of these rights which were basic to the ethos of the Constitution and to any defensible civilization. The Court went on to say, “the Courts are under a duty to send a clear message to the Accused and to other potential rapists and to the community that we are determined to protect equality, dignity and freedom of all women and we shall show no mercy to those who seek to invade those rights”.

2.2.6 Institutional Mechanisms

Measures aimed at addressing violence against women have also sought to strengthen the institutional mechanisms for co-ordinating violence against women measures and for enforcing the rights of victims or survivors. The successful prosecution of sexual offence matters is a national priority of the Criminal Justice System. Some of the key institutional mechanisms that have been created over the last few years include the following:

ξ Specialised Sexual Offences Courts

South Africa has established specialist Sexual Offences Courts (SOCs) to a total of 54 (fifty-four) nationally. Services to victims have been greatly improved, due to the strong relations cultivated with other key departments. As a result of their specialised focus, these courts have an average conviction of 62% as opposed to 42% in cases dealt with at ordinary regional courts. More established sexual offences courts have reached an average of between 75% and 85%. In November 2003, a comparative analysis regarding the cycle time of sexual offence cases in dedicated Sexual Offences Courts, that case turnaround had dramatically decreased from 285 days to 142 days from first appearance to finalization of the case.

ξ Thuthuzela Care Centres

Thuthuzela Care Centres (TCC) are 24 hour one-stop service centres where victims have access to all services that include police, counselling, doctors, court preparation and a prosecutor. The main objectives for these centres are to eliminate secondary victimisation, reduce case cycle time, and to increase convictions. Currently there are seven TCCs and more are being planned.

ξ **Domestic Violence Courts**

There are dedicated courts for handling domestic violence cases in each and every Magistrates Court

ξ **Family Courts**

Family Court Centres, established to strengthen co-ordination of legal and social services on family disputes, also cover domestic violence, maintenance, divorce-ancillary relief and welfare of children. These courts also provide psychological, sociological and mediation support services to women and children subjected to gender-based violence. A Process Mapping Process for these Courts has just been completed and this will inform further modernisation of processes.

ξ **Child Protection and Sexual Offences Units**

Specialised capacity for the SAPS to investigate sexual offences cases is located in the Family Violence, Child Protection and Sexual Offences Units (FCS). The SAPS continued to establish specialised investigative units to deal with rape and sexual offences. By December 2004, 41 **Family Violence, Child Protection and Sexual Offences Units** (FCS) and 20 Child Protection Units had been established.

ξ **Administrative Co-ordinating mechanisms.**

Various co-ordinating mechanisms have been set up to support integrated planning, implementation and monitoring. Representation in these structures includes the Police, Health Practitioners, Probation Officers/Social Workers, Prosecutors, Court Managers and in some instances, Judicial Officers and representatives of the private legal profession.

2.2.7 Transformation and re-engineering of processes in the legal system

Measures have been implemented with a view to improving the administrative capacity of criminal justice institutions, including the police, prosecution, the courts and correctional services. Automation has been a major dimension of the changes that have been introduced to modernise courts so as to keep them abreast of the sophistication of crime and other legal disputes. However, modernisation is undertaken in the context of taking into account the need to meet the basic needs of the poor while pursuing global competitiveness.

2.2.8 Administrative Guidelines

To support the implementation of laws, South Africa has developed a number of administrative guidelines. The process of developing such guidelines and their content is informed by and seek to reinforce an integrated response to violence against women, including the girl child. Instruments worth noting in this regard include:

- § *National policy Guidelines for Handling Victims/Survivors of sexual Offences (Sexual Offences Guidelines, 1997)*
- § *Gender Policy Guidelines and or Policy Statements of the various participating Departments e.g. Justice and Health*
- § *Domestic Violence Guidelines*

2.2.9 Victim Empowerment

South Africa has implemented various measures that are aimed at placing the victim or survivor at the centre of the justice system and social responses to violence against women. In the last ten years, various measures have been implemented to support victims. Key measures include the following:

a) Service Charter for Victims of Crime (Victims Charter):

A *Victims Charter*, accompanied by a statement on the ***Minimum Standards on Services for Victims of Crime (The Minimum Standards)*** was finalised in 2004. One of the objectives of the Charter is to balance the rights of victims with those of alleged offenders. Women as victims are likely to benefit significantly from the service delivery changes that will be engineered by the Charter.

b) Law Reform to Strengthen the Protection of Victims' Rights

The following law reform measures have improved the protection of victims in the criminal justice process

- § *Criminal Procedure Second Amendment Act No 75 of 1995*
- § *Criminal Procedure Second Amendment Act No 85 of 1997*
- § *Criminal Law Amendment Act No 105 of 1997*
- § *Sexual Offences Bill, 2003*
- § *Witness Protection and Services Act, No112 of 1998*
- § *SALRC Investigation on Restorative Justice*
- § *Development of a South African Service Charter for Victims of Crime*
- § *Witness Protection and Services Act, 1998 (Act 112 of 1998)*

c) Victim Support Services

South Africa has continued to implement various mechanisms that are aimed at improving victim services. This has included one-way mirrors and CCTV to protect the Girl Child and other children. Many courts have also been equipped with special waiting-rooms and where possible, counselling services. Shelters

are also provided to victims. However, these are not yet enough. The victim support programme has evolved over the years and now incorporates counselling and other support services for service providers such as the prosecution, police and maintenance officers. Advice Desks, information packs and related support services have been introduced to courts to provide a user-friendly environment.

A *Resource Directory* on services for victims of domestic violence was compiled and is regularly updated. A toll-free line is in the process of being implemented. In 1999 an NGO managed a *Toll-Free Line* for Victims of Violence against Women, initiated through administrative and financial support from government.

d) Law Reform to address Restitution

South Africa is currently finalising a ***Sentencing Framework Bill***. This measure, which seeks to explore amongst other things, avenues for victim compensation, deals with a review of all aspects related to sentencing. This includes addressing limitations to victim compensation in the current Criminal Procedure Act³. Women and other victims of crime, particularly, violence against women and children, are meant to benefit from this law reform initiative.

2.2.10 Human Rights Instruments Signed/Ratified

South Africa has signed and committed itself to the implementation of various human rights instruments that support the elimination of violence against women and related forms of gender inequality or discrimination. These inform the country's response to violence against women. The key instruments in this regard are:

- ξ International Covenant on Economic, Social and Cultural Rights – 16 December 1966.
- ξ Convention on the Political Rights of Women – 31 March 1953.
- ξ Convention on the Nationality of Married Women – 20 February 1957.
South Africa signed the Convention on 29 January 1993.
- ξ International Covenant on Civil and Political Rights – 16 December 1966.
- ξ Convention on the Elimination of All Forms of Racial Discrimination – 7 March 1966.
- ξ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment- 10 December 1984.
- ξ Convention on the Prevention and Punishment of the Crime of Genocide.
- ξ Convention on the Elimination of All Forms of Discrimination against Women – 18 December 1979.
- ξ Convention on the Rights of the Child – 20 November 1989.

³ Section 300 of the Criminal Procedure Act.

- ξ African Charter on Human and People's Rights – adopted on 27 June 1981 and entered into force on 21 October 1986.
- ξ African Charter on the Rights and Welfare of the Child.
- ξ Hague Convention on the Civil Aspects of International Child Abduction.
- ξ South Africa acceded to the four Geneva Conventions of 12 August 1949, on 31 March 1952.
- ξ Instruments of Accession (relating to the two Additional Protocols of 10 June 1977 to the Geneva Conventions of 12 August 1949)
- ξ Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages – 10 December 1962.
- ξ Convention for the Suppression of the Traffic in Women and Children – Geneva
- ξ Convention for the Suppression of the Traffic in Women of Full Age – Geneva,
- ξ Protocol to amend the Convention for the Suppression of Traffic in Women and Children of 1921 and the Convention for the Traffic of Women of Full Age in 1933 Lake Success, New York, 12 November 1947.
- ξ Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others, plus Final Protocol – Lake Success, New York

South Africa implemented measures in compliance with the recommendations of the recommendations of the Special Rapporteur of the Commission on Human Rights on violence against women. The recommendations were part of her report during her visit to South Africa.

It worth noting that, in line with international human rights law, South African law regards gender violence as a form of discrimination and therefore a violation of human rights. The law adopts the same approach to Female Genital Mutilation.

2.2.11 Female Genital Mutilation (FGM)

In response to CEDAW and related international human rights norms, South Africa passed legislation that prohibits Female Genital Mutilation. This was achieved in 2000, through the Promotion of Equality and Prevention of Unfair Discrimination Act. The Act prohibits Female Genital Mutilation and declares it a form of discrimination on the grounds of gender.

2.2.12 Training and Capacity Building for all Service Providers

South Africa has invested a lot of resources towards ensuring that there is adequate capacity for handling violence against women amongst state

employees at all levels. Some of the education and training programmes in this regard have been inter-sectorally conceived and delivered with a view to ensuring an integrated response to violence against women. Examples in this regard, include training of public officers in the justice system on:

- § *Guidelines for Handling Victims of Sexual Offences*
- § *the Domestic Violence Manual; and*
- § *on the Victims' Charter and Minimum Standards*

Some measures have targeted specific groups who play a role in combating violence against women. This includes the following:

- § **SAPS:** Domestic Violence, Investigating Rape, Forensic Services and a Schools Project called SignPost for Schools and Handling of Young Offenders.
- § **Health:** Forensic Nursing and Gender Based Violence Conference in 2002
- § **Social Development:** Victim empowerment and Sexual Offences Guidelines
- § **Prosecution:** Domestic Violence, Gender Violence and Rape
- § **Court Admin. Personnel:** *Batho Pele* (People First) and for Clerks of Court and Registrars, Equality Act training incorporating social context awareness, and Maintenance Act Training.
- § **Judiciary:** Social Context awareness (ongoing), Conference on Effective Service Delivery (Magistrates) covering Domestic Violence, Maintenance, Case Flow management and Sexual Offences, Equality Act Training (ongoing since 2001) and Jurisprudence of Equality (Ongoing since 2004)

2.2.13 Public Education and Awareness Raising Campaigns

The South African Government through its integrated structures has dedicated a lot of resources towards public education and awareness raising: The following are some of the programmes embarked upon by the government to educate the public and raise awareness:

a) Sixteen Days Campaign on No Violence Against Women and Children

Launched on *International Day of No Violence Against Women* in 1999, the Sixteen Days of Activism Campaign is a partnership venture between government and civil society that focuses on extensive awareness raising on violence against women for a period of 16 days commencing on November 25 (*International Day of No Violence against Women*) and ending on December 10 (*International Human Rights Day*).

The campaign has succeeded in placing violence against women firmly on the national agenda. It has managed to bring on board the media, sporting sector,

men's groups and other non-traditional supporters of the quest to end violence against women and children.

The 16 days campaign has also contributed significantly to the popularisation of the SADC Addendum on violence against women and children and integrating violence against women in the country's human rights dialogue. A challenge with regard to the ongoing campaign on violence against women is to take it beyond the 16-day period and to ensure that issues covered go beyond domestic violence and rape, and incorporate issues such as trafficking in women and children. There is also a need to broaden the campaign to rural areas.

b) Other Public awareness Measures

Measures seeking to ensure public awareness and support for efforts aimed at ending violence against women have been implemented throughout each year over the last ten years. Examples in this regard include:

- ξ White Ribbon Campaign
- ξ Men's March
- ξ Train campaigns
- ξ Focussing on violence against women and children during campaigns such as Children's Week, Constitutional Week, Open Court Day and the celebration of National Key days such as August 9 - National Women's Day.

c) Pubic Education and Awareness Measures by Constitutional Institutions

The South African Human Rights Commission and the Commission on Gender Equality, both statutory bodies created for monitoring and enforcement of human rights and women's rights have continuous public education programmes that touch on the issues of violence against women.

d) Measures by Departments, Sectors and Provinces

The various government departments are regularly implementing public awareness and advocacy measures on various aspects of violence against women. Many of these measures seek to provide education on specific aspects of violence against women or on matters that have a major impact on violence against women. These measures are a combination of the following:

- ξ Posters, booklets, pamphlets and T-shirts. e.g. domestic violence maintenance and stalking information pamphlets
- ξ Television and radio programmes: e.g. customary marriage law and Victim's Charter multi-lingual radio projects.

ξ Workshops, conferences, seminars, symposia and *Izimbizo* (Big community gatherings)

The impact of many of these interventions can be felt throughout the country. For example, levels of awareness⁴ on matters such as rape, domestic violence maintenance, customary marriages and inheritance rights, are increasing. However, enormous challenges remain with regard to reaching rural women on a continuous basis.

2.2.14 Measures for Vulnerable Groups of Women

Measures on violence against women regularly take into account the special circumstances and concomitant needs of women who are particularly vulnerable to violence or who face additional obstacles in accessing justice and or other services that reduce the impact of violence on them. Women in this category include women with disabilities, the Girl Child, young women, elderly women and refugee women. With regard to women with disabilities, measures have included language services (e.g. braille copies of important policy frameworks such as the National Gender Policy Framework and the Victims' Charter. Measures targeted at the girl child are mostly in the justice system, particularly the courts.

2.2.15 Alternative Dispute Resolution

South Africa has realised that the formal court system is not suited for all disputes. Measures are being processed with a view to exploring increased use of informal dispute resolution mechanisms to improve access to justice. This is in reference to the fact that the court system is increasingly becoming complex and expensive for low-income users, including women. Furthermore, the principles and practices in the courts were colonially imposed on local African communities and accordingly, these communities face additional barriers in using the courts meaningfully to access justice.

The South African Law Commission has been requested to conduct an investigation on this matter and it is in the process of finalising this investigation. Furthermore, traditional dispute resolution mechanisms are also being explored although account is taken of gender dynamics in this area.

2.2.16 Monitoring, Evaluation and Review

South Africa constantly monitors the policy and legal framework that has been created in response to violence against women. Impact studies are often conducted and policy instruments and or institutional mechanisms reviewed. For

⁴ Based on snap surveys and anecdotal evidence.

example the Department of Health is revising the Management Guidelines for the Survivors of Sexual Assault. The guidelines are intended to guide the provision of health-care services as well as set the minimum acceptable standards for provision of quality care to the victims of sexual assault.

2.3 STUDIES ON CAUSES AND CONSEQUENCES OF VIOLENCE AGAINST WOMEN AND THE EFFECTIVENESS OF PREVENTIVE MEASURES

2.3.1 Research

South Africa has invested in a lot of research dealing with various aspects of violence against women. Most of the Research has been done by the South African Law Review Commission as part of the law reform process. Key research projects during the period under review included the following:

- ξ *Research Project 85: Aspects of the law relating to Aids: compulsory HIV testing of persons arrested in sexual offence cases: compulsory HIV testing of sexual offenders bill*
- ξ *Project 107: Sexual Offences: Adult prostitution*
- ξ *Project 118: Domestic Partnerships*
- ξ *Project 131: Trafficking in Persons*
- ξ *Project 107: Sexual Offences: Criminal law (sexual offences) Amendments Bill*
- ξ *Research project 82: sentencing*
- ξ *NPA commissioned a Child Rape Offender Profiling Study which is currently underway (investing in the gaps).*
- ξ *The SAPS Study on Causes Prevalence and Patterns of rape years.*
- ξ *A study aimed at profiling SAPS members prone to violence, conducted by the independent complaints directorate*
- ξ *Research on the Integrated Rape Portal*
- ξ *Study on Domestic Violence focussing on Department of Justice employees.*

Research measures have also included the commissioning of studies to help create linkages in the CJS and develop best practices, as well as provide an audit of existing support services nationally.

An Integrated Rape Portal has been introduced in pilot format in 40 courts around the country, creating a central database for prosecutors and non-governmental organizations, from which an environmental scan can be conducted.

Once research is concluded under the auspices of Government, the information is disseminated as widely as possible. This is particularly the case in respect of investigations conducted by the South African Law Review Commission (SALRC). Getting the information to reach women in rural areas and those who are not attuned to sophisticated information dissemination remains a major challenge. However, Government in partnership with civil society is continuously exploring ways and means of addressing this barrier.

2.3.2 Research in Collaboration with NGOs

A lot of research has been conducted over the last ten years through collaborative ventures with civil society institutions. Relevant studies have contributed significantly to a better understanding of and ensuring effective responses to violence against women, including the Girl Child. Such studies have covered various facets of the issue of violence against women, including: domestic violence; sexual offences; the causes of gender-based violence against the Girl Child; the legal position of women who kill abusive spouses or partners; and the impact of specialist courts such as sexual offences courts and domestic violence courts.

2.4 ELIMINATE TRAFFICKING IN WOMEN AND ASSIST VICTIMS OF VIOLENCE DUE TO PROSTITUTION AND TRAFFICKING

South Africa is committed to combating trafficking in women. Measures aimed at combating violence against women have included **bilateral and multilateral co-operation agreements**, particularly those that focus on organised cross-border crime. The South African government has ratified the key instruments on trafficking in women and children. These include:

- ξ The UN Convention Against Trans-national Crime;
- ξ The Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and children;
- ξ Optional Protocol to the Convention on the Rights of the Children; and
- ξ The Protocol Against the Smuggling of Migrants by land, sea or air, supplementing the UN Convention Against Trans-National Crimes

2.4.1 Legislative and Policy Framework on Trafficking

Government action on trafficking in compliance with the BPA, CEDAW and the above international instruments included: the strengthening of international ties

for cross-border collaboration; getting extensive information about the problem for the purposes of a comprehensive law and administrative review; and harnessing available legal and administrative avenues to respond to this global problem, in the interim.

Research conducted in partnership with civil society institutions and international agencies has established that although current legislation provides opportunities for dealing with aspects of trafficking in women and children, there are gaps particularly in relation to dealing with cross-border trafficking and acts of trafficking that do not constitute sexual offences under current law.

The government has accordingly initiated a comprehensive study on trafficking which deals with forms, patterns and influencing factors and is to inform law reform measures aimed at achieving a holistic and integrated response to trafficking in women and children. The study includes a SALRC investigation currently at the state of an issue paper: *Issue Paper on Trafficking in Persons (SALRC Issue paper25 (Project131))*. The work also involves inter-sectoral research that covers role players from the NPA (SOCA, National Intelligence Agency (NIA), the South African Police Services and the Department of Home Affairs.

2.4.2 Active Prosecution of Traffickers

Traffickers are currently prosecuted using existing common law and statutory offences. The laws that are used include those on rape, assault, kidnapping, wrongful intention to deprive the liberty of another, abduction, murder, *Crimen injuria* (insulting the dignity of another) and extortion. Traffickers have been sought and actively prosecuted over the last few years. As a result, several syndicates have been busted.

The prosecution of traffickers is backed by high-level special investigation units, including the FBI like Scorpions that target national syndicates. Legislation targeted at organised crime has been utilised effectively. This includes legislation relating to asset seizure and forfeiture of the proceeds of crime. Specific statutes that currently support the combating of trafficking and have been used to prosecute traffickers include: The Prevention of Organised Crime Act, No. 121 of 1998; *Refugees Act*, No. 130 of 1998; Domestic Violence Act, No. 116 of 1998; *Sexual Offences Act*, No. 23 of 1957; *Basic Conditions of Employment Act*, No 75 of 1997; and the *Child Care Amendment Act*, No 96 of 1996.

3.7 Government measures as alluded to in the above have also dealt with those responsible for child prostitution. Child prostitution is prohibited under the Sexual Offences Act, No. 23 of 1957, and the Child Care Act No. 75 of 1982. Both Acts have been reviewed by the South African Law Commission, and the recommended reforms are in the process of implementation. Laws prohibiting child pornography have also received equally rigorous attention.

2.5 CHALLENGES AND LESSONS LEARNT

(a) The above review of measures that have been implemented by South Africa in the past decade with a view to ending violence against women in compliance with the country's obligations in terms of the BPA, CEDAW and related human rights norms, serves as testimony to South Africa's commitment to ending violence against women through an integrated response to this social scourge.

(b) The programme that has been implemented during the period under review also confirms that ending violence against women is a national priority and that South Africa regards violence against women as a violation of women's human rights that affects their development while undermining their participation in the opportunities and freedoms that democracy has created.

(c) The key challenges that need to be addressed in the next phase of implementing the BPA, include the following:

- ξ Strengthening the integrated approach and in particular, ensuring a rigorous implementation of the SADC Addendum on violence against women and children
- ξ Finalising outstanding legislation, particularly legislation relating to sexual offences and trafficking
- ξ Review the effectiveness of the domestic violence legislation particularly in the light of the fact that current measures do not include social interventions to deal with the causes and influencing factors in domestic violence
- ξ Conduct regular impact studies, including customer feedback surveys on law reform and administrative measures
- ξ Conducting ongoing training of service providers and mainstreaming gender into all service provider training and public awareness measures.

2.6 COMMITMENT TO FURTHER ACTION

The South African government is committed to the development of a Programme of Action on Women's Empowerment and Gender Equality 2005-2015 which will include measures to eliminate violence against women and children.

