



**INTERNATIONAL CONFERENCE**  
ON ENSURING EQUAL ACCESS TO JUSTICE FOR  
VICTIMS OF VIOLENCE AND ABUSE:  
RULE OF LAW IN ACTION

# REPORT



CAPE TOWN INTERNATIONAL CONVENTION CENTRE  
**27-29 NOVEMBER 2019**

HOSTED BY



SUPPORTED BY



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Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA



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## EXECUTIVE SUMMARY

From the 27th to the 29th of November 2019, Ilitha Labantu in partnership with the African Women's Independent Forum (AWIF) organised and hosted an international Conference titled "**Ensuring equal access to justice for victims of violence and abuse: rule of law in action**". In hosting the conference, Ilitha Labantu was supported by Bread for the World, United Nations Women South Africa Multi Country Office, the Cape Peninsula University of Technology, The Department of Justice and Constitutional Development, Sizwe Africa IT Group, FP & M SETA, Engen and SAE Foundation.

The Conference was held to discuss measures and practical action to ensure women's access to justice, with a focus on women who are the majority of victims and survivors of violence. The Conference discussed and defined the needs and strategies to build the capacity of judicial systems and legal professionals to ensure equal access to justice for women, especially women who are victims or survivors of violence.

The Conference was held at the Cape Town International Convention Centre (CTICC), Cape Town. It was attended by approximately 170 delegates who also delivered research papers on the subject. The delegates included, inter alia, the Deputy Minister of Justice and Constitutional Development, Mr John Jeffery (MP); Speaker of the National Assembly Ms Thandi Modise, Deputy Chairperson of The National Council of Provinces, Ms Sylvia Lucas; members of the South African judiciary; members of the legal profession; Justice of the Supreme Court of Trinidad and Tobago; delegates from academic institutions; government officials; representatives of broader civil society, UN agencies, international organisations and NGOs, as well as representatives of civil society organisations providing legal services to the people of South Africa.

The Conference provided a meaningful forum to discuss of the challenges facing women in their attempt to seek justice and those seeking roles within the justice system. The three-day event gathered partners with a wealth of legal and practical experience and expertise in the pursuit of justice. In many of the countries represented, rape, sexual harassment, domestic violence and other forms of gender-based violence are also widespread. The obstacles for women in need of access to the justice system are manifold, and crimes of this nature are often committed with impunity. At the same time individual and institutional biases and widespread discriminatory practices present impediments to women seeking protection, or professional roles within the justice sector.

The Conference focused on recognising the many challenges as well as establishing how best to confront and rise above them. The role of judges in identifying biases and promoting attitudinal change was discussed, and the benefits of training programmes and partnerships considered. Calls from participants for assistance with training and sensitisation programmes for all actors in the justice sector accompanied a desire for closer collaboration with civil society organisations and international actors.

The Conference highlighted the inefficiencies within the criminal justice system particularly when dealing with women survivors of violence and how these inadequacies impede women's enjoyment of their fundamental right to equal protection. The main issues identified were the inefficiency of the work of the Prosecutor's Office for crimes of abuse; the obstruction of the judiciary system and the impunity at the legal and political level.

Through the sharing of experiences and best practices, concrete recommendations emerged from discussions, including the formulation of standardised judicial trainings on human rights and in particular women's rights, model laws on violence against women and gender based violence, norms and standards including directives or guidelines based on international and regional instruments.

The Conference was an outstanding international forum to present, discuss and review progress made as well as challenges that exist at the national, regional and international levels on ensuring the rule of law. This Conference proved to be a suitable platform for discussions in order to raise awareness and identify additional actions for policy makers to prevent and remove all the barriers that hinder women's access to justice. It was highlighted that some of these challenges are linked to the actual investigation of cases of violence against women and once a case is not properly investigated more often than not the woman survivor of violence does not receive positive justice outcomes. This Conference was also an opportunity for participants to think about new perspectives for survivors in the area of improving women's access to justice. It also managed to identify pathways to achieving access to justice for survivors of abuse at the national, regional and international level.

Discussions stimulated 'action plans' outlining both short- and long-term activities and recommendations for addressing gender justice in the region. Positive feedback from many of the participants indicated a strong desire to take discussion outcomes well beyond the Conference itself to concrete, programmatic endeavours. Central to this Conference on Access to Justice and the Rule of Law more broadly is the concept of partnership and cooperation, and it is anticipated that the partnerships established in Cape Town will go well beyond the Conference itself, turning words into action.

Ilitha Labantu wishes to convey its gratitude to the many delegates who availed themselves from all over the world to participate in this intensive discussion on accessing justice for victims of violence and abuse.

## I. BACKGROUND

Violence against women serves as one of the most pronounced expressions of uneven power relations between women and men both as a human right violation and as a major obstacle to gender equality. Violence directed against women because they are women forms an integral part of a gender biased social structure which leaves its victims in a particularly vulnerable situation. Widespread impunity and inadequate state responses to such violence often based on patriarchal stereotypes of gender roles leave many of the female victims of violence unprotected and without recourse to justice. Women often find it more difficult than men to access the justice system.

Women's limited access to justice is a complex social phenomenon that combines a series of inequalities at the legal, institutional, structural, socio-economic and cultural levels. This may be the result of discriminatory norms and practices within the justice sector and society as a whole; or it may reflect inadequate training and/or a lack of awareness by actors within the justice sector. It may be a function of the generally low level of literacy among African women and their consequent challenges in accessing information and institutions that often use English as the medium of communication despite the fact that the majority of users of this information and institutions are unfamiliar with both the language and environment. It may also be because women are less aware of their rights and responsibilities provided under their country's Constitutions, or that the crimes and threats to which they are exposed are not prioritised by law enforcement actors. This is even more pronounced in post-conflict environments.

Ensuring access to justice implies providing women of all backgrounds with access to fair, affordable, accountable and effective remedies so that women and men can enjoy both equal rights and equal chances to assert them.

The concept of access to justice covers contact with, entry to and use of the legal system. It is more than simply ensuring the efficiency of justice systems. It is about ensuring the sensitivity and responsiveness of such systems to the needs and realities of women, as well as empowering them throughout the justice chain. Reducing the impact of obstacles faced by women not only facilitates greater accessibility, but it is also an essential step towards achieving substantive gender equality.

There are masses of practical resources, tools, and experiences that can support the efforts of those working to promote gender justice but they all too often stay where they began, isolated from the many others who could benefit from them. The road to gender equality is long and difficult but encouragement and inspiration may be found in the success stories and best practices of others. Equally important are the valuable lessons learned if the mistakes of earlier efforts are to be avoided in the future. By coming together to share information, tools, and wisdom - what worked, what did not, and why - with those who face similar challenges, we can stand together on the shoulders of experience and see further down the road toward equality.

This international Conference comes at a time when people around the world, especially people living in poverty, are denied access to justice as they are unable to afford exorbitant legal fees and/or if they can afford them, their funds may dry out as such persons often cannot sustain the costs associated with continued litigation. Conferences are designed to provide a forum for participants to

share experiences illustrating not only the extreme challenges and daunting needs that women face, particularly in post-conflict environments, but also the many innovative and remarkable achievements made, often in the face of scarce resources and limited support. The Conferences also provided a platform for national stakeholders to propose specific programmes to promote gender justice in their countries and advocate for international and regional support to implement such programmes.

## 2. CONFERENCE PROCESS

Ilitha Labantu, in partnership with the African Women Independent Forum (AWIF), worked together to develop a substantive programme and identify participants who would contribute to the discussions and take the lead in implementing initiatives developed at the Conference after they returned home. The Conference was designed to provide a forum for participants to share experiences illustrating not only the extreme challenges and daunting needs that women face, particularly in post-conflict environments, but also the many innovative and remarkable achievements made, often in the face of scarce resources and limited support.

To facilitate discussions at the Conference, all participants were provided with a copy of the Conference Concept Note and a Resource Book containing various international and regional conventions, protocols, resolutions and other background documents. The Conference discussions however were not focused on specific laws and international instruments but rather on jurisprudence and how the judges can effectively adjudicate gender-based violence (GBV) cases in a gender sensitive and victim centric and survivor supportive manner.

While the discussions and proposals of the conference often reached outside the frame of the judiciary, there was an attempt to keep the focus of this report on the role of the judiciary in promoting access to justice. For organizational purposes only, the Rapporteur has tried to arrange the issues into three general categories: identifying the challenges, rising above the challenges, and taking action beyond the conference.

### II. Introduction

Access to justice for women is a central gender equality issue. Indeed, besides being confronted by structural gender inequalities and violence in most areas of life, women also experience specific barriers and discrimination when seeking redress in the justice system. The justice system, which should be the guardian of fairness and equality, very often replicates the stereotypes and obstacles present in society. As in all other areas, groups of women in vulnerable situations are confronted with greater obstacles in accessing justice. In order to secure substantive equality across all fields of human life, it is paramount to ensure equal access to justice for all women.

While gender-based discrimination is not a new phenomenon, in recent years, women have also been disproportionately affected by austerity measures, budget cuts, strict migration laws, as well as by narrowly focused equality provisions which exclude fields of human activity in some countries. In this context, the Conference recalled that equal access to justice for women should have at its basis the following four 'A's: adequacy, adaptability, availability and accessibility for all, as developed by the Convention on the Elimination of Discrimination against Women (CEDAW).



These factors and other inequalities impact on women's capacity to access justice and, more generally, on the realisation of gender equality. Like women in many other countries, during the long struggle for independence, women of South Africa and the world over contributed to the independence process in many different roles. Today, South African women try to find their self confidence in new roles in a South African society that is dominated by a patriarchal system. Whilst the struggle for racial equality in South Africa is over, another form of struggle has become more pronounced and that is, domestic and sexual violence including cultural violence and these forms of violence are directed at women.

Women may be in a particularly vulnerable situation with regards to their health, employment situation, ethnicity, culture and/or other aspects. They may be unable to act due to a lack of knowledge, literacy, resources, existing stereotypes or other factors. Women in such situations often do not have the authority and power necessary to defend their rights. A justice system that fails to understand such vulnerability will exclude those who need it the most.

These inefficiencies in the justice system have resulted in women lacking trust in the system. Also, historically, the defence of women's human rights has not been a priority. A justice system that treats women's rights and needs inadequately, including women from particular social groups (women survivors of violence, lesbian/bisexual/ transgender women, migrant women, women with disabilities, or women in prison, to mention only a few examples) fails to fulfil its role in a democratic society.

The lack of provision for reparations for victims of violence against women is another factor that contributes to the current situation where women lack trust in the justice system. The high levels of impunity are also a contributing factor.

Strengthening women's access to justice and the rule of law is a complex process as the multi-layered causes which are influencing the actors in the criminal justice system need to be acknowledged and addressed in an honest and transparent manner. This includes addressing the role of different stakeholders, namely the police, social services, healthcare establishments, courts and civil society organisations that work with women victims and survivors of violence. It also requires looking at the social context within which the justice system operates in terms of policy, legislation and social constructions, notably addressing harmful gender-based discrimination, violence and stereotypes.

### **CONFERENCE SUPPORTERS**

- Bread for the World
- UN Women South Africa Multi-Country Office
- The Department of Justice & Constitutional Development
- Sizwe Africa IT Group
- Cape Peninsula University of Technology
- Engen
- PF & M SETA
- SAE Foundation

### **ATTENDANCE**

More than 100 women attended the three-day conference from all continents and many from South Africa. The presentations were of high standard and very well received by the audience. Presenters were divided into panels around the sessions of the conference after which the audience were invited to ask questions and comment on the presentations. These were lively and dynamic sessions. The Conference feedback forms were all very positive. The program was interspersed with songs which creatively explored the role of women in peace building and in society in general.

# 1 DAY 1

**INTERNATIONAL CONFERENCE**  
ON ENSURING EQUAL ACCESS TO JUSTICE  
FOR VICTIMS OF VIOLENCE AND ABUSE:  
RULE OF LAW IN ACTION



## WELCOME AND INTRODUCTION: GOALS OF THE CONFERENCE -

Chairperson of Ilitha Labantu  
Ms Ntutu Mtwana

**The Chairperson of Ilitha Labantu, Ms Ntutu Mtwana** welcomed the delegates to the Conference and recognised the various dignitaries who were in attendance. She also acknowledged the various conference supporters from several entities as indicated in both covering page and the executive summary. What follows hereunder is an excerpt from her speech.

“There is little doubt that the law plays a critical role in any society. It sets rules for engagement, it regulates conflict, it is meant to provide a fair rules-based system to resolve most forms of contestation. At other times it serves to moderate power held by the state or private actors and it is really meant to fulfil the promise that it carries for a better life for all. It is also meant to protect the weak, the vulnerable and the marginalised.”

Thereafter, Ms Mtwana who also served as the Programme Director commended CPUT for supporting the conference and acknowledged the importance of working with tertiary institutions in fighting the scourge of violence in South Africa. She then introduced the next speaker from CPUT to deliver the opening remarks.



Ms. Nonkosi Tyolwana – Director:  
**TRANSFORMATION, SOCIAL  
COHESION & DIVERSITY UNIT AT THE  
CAPE PENINSULA UNIVERSITY OF  
TECHNOLOGY**

**Ms. Nonkosi Tyolwana** started by tendering an apology on behalf of Ms. Thobeka Mda who was initially scheduled to represent CPUT and expressed the university’s gratitude and honour for having partnered with Ilitha Labantu to host this international Conference. In her remarks Ms. Tyolwana emphasized the need for partnerships between tertiary institutions and civil society organizations (CSOs) like Ilitha Labantu that work with survivors of violence. She noted that CPUT’s students and those from other institutions of higher learning could benefit from the programmes offered by these organisations particularly those programmes that focus on psycho-social support and provision of legal services for survivors of violence.



**Ms Mandisa Monakali**  
Founder of Ilitha Labantu

**Ms Monakali** gave a moving introductory speech highlighting the purpose of the Conference and the plight of women in societies. In her address, she spoke of the reasons Ilitha Labantu was formed and detailed its many challenges and achievements over the past thirty (30) years. She also captured the realities that are faced by women in many countries, more particularly women in townships and in rural areas in South Africa, where the illiteracy rates are quite high thus impacting on their access to information that is necessary if their voice and agency on issues of VAW are to be amplified. Ms Monakali emphasized how historically the justice system had never been kind to women and how more often it continues to fail them. She furthermore stated how today 16 Days of Activism against gender-based violence and child abuse was now shaking the pillars of patriarchy from grassroots activism to worldwide action. “We are entering a phase in history where the world expects balance”.

She wanted to know what access to justice meant to the judiciary since so many women are still struggling to receive justice outcomes. She challenged the Judiciary to categorically state what they see their role to be as judicial officers in a democratic South Africa, what justice meant to them, what they meant when they talked about the rule of law. She said “South Africa is celebrating 25 years of democracy; Ilitha Labantu is celebrating its 30-year anniversary of providing much needed services to women survivors of violence to enable them to claim their rights including independence, building trust and restoring their dignity. She also highlighted the many successes and challenges Ilitha Labantu had survived through the 30 years of its existence and how even in the current political climate, the protection and promotion of women’s rights is more essential than ever before. She reiterated how together we can learn from the past and create a positive, actionable vision for the safety of women in South Africa: today, tomorrow and even 30 years from now.

Ms Monakali detailed how Ilitha Labantu’s inception has been at the forefront of nearly every important battle for women’s equality and empowerment since its inception, even though it was many times it lacked social protection, and commitment from the South African government. Ms. Monakali also noted that in the 30 years of Ilitha Labantu’s existence it has become a truly international network, comprising of members from 46 countries. Ilitha Labantu recognizes that other social inequalities, grounded on age, health status, ethnicity, culture, nationality, religion, class, sexual orientation, gender identity, residence status or others represent an obstacle to the realisation of human rights and peace. These needs to be addressed in the work to end violence against women and children. “We are facing difficult times in South Africa, economic and political crisis, the rise of right-wing nationalistic movements, anti-racism tendencies, and backlash in the gender-equality agenda and funding constraints.” She reiterated that these factors do not mean that it is less important to work for the elimination of violence against women and children and gender equality but the contrary. The work for women and children’s human rights is a contribution to the work for human rights of all people. Her speech closed with an evocative debate amongst the participants of the conference.



Mr Laurent Amar  
**Consul General of France  
in Cape Town.**

**Mr. Laurent Amar** acknowledged the recent efforts made by the South African government in addressing Gender Based Violence and Femicide in South Africa. He referred to the President's Emergency Plan of Action on Gender-Based Violence and Femicide developed to respond to the call for tangible actions to end gender based violence and femicide in South Africa and said that France was at South Africa's disposal to support the implementation of this plan, particularly through the exchange of experiences and lessons learned.

Mr. Amar gave the example of transitional justice in France born from the wish to strike a balance between ordinary criminal justice and traditional methods of reconciling communities. Transitional justice is regarded by France as a priority means of maintaining regional peace and a weapon in the fight to eradicate impunity and defend human rights. According to Mr. Amar; since 2006, France has been engaged in cooperation projects linked to transitional justice. Little known in the French-speaking world, the transitional justice process aims to support conflict prevention and restoration of the rule of law. Mr. Amar shared that transitional justice is founded on four main pillars: the right to truth, the right to justice, the right to reparation and the prevention of future abuse through institutional reform. France's voice can also be heard in international debate, urging the incorporation of the concepts of transitional justice and the lessons learnt from their practical implementation into processes for security system reform (SSR) and disarmament, demobilization and reintegration (DDR).

Mr. Amar stated that France is also grappling with gender-based violence and that gender inequality is also an issue in that country although the challenges are not the same as those of South Africa. However, he acknowledged that violence against women is a systemic problem; and that access to justice is a duty of state. He also recognised the role played by South African civil society in tirelessly fighting to ensure equal access to justice for women and children who are victims of violence. He ended his speech by congratulating South Africa on its contributions during its Presidency of the UN Security Council.





## SETTING THE SCENE

### Presenters:

**Ms. Ella Mangisa,**  
Director of Ilitha Labantu

**Ms. Phelisa Mashiya**  
Social Worker at Ilitha Labantu

### Moderator:

Ms. Ntutu Mtwana

The session looked at some of the key moments and victories of Ilitha Labantu over its 30-year history of being at the forefront of the fight to end violence against women and children in South Africa.

**Ella Mangisa** started by explaining the preparatory work that included deliberations with key stakeholders in the lead up to the Conference. She emphasised the urgent need for civil society to claim the space in the fight against violence against women and child abuse and linked this with the expectations of the Conference including inter alia the following: civil society holding the government accountable in as far as tackling violence against women and children is concerned; considering more victim centred approaches and ensuring that survivors get the justice they deserve.

**Phelisa Mashiya** highlighted the challenges and successes of Ilitha Labantu over the past 30 years. She also emphasised the need to better understand who the law protects - the victim or the perpetrator; and called upon the Judiciary to unpack how they as presiding officers ensure that the rights of survivors of VAW are protected by the justice system.





#### KEYNOTE ADDRESS

**(Hon) Ms Thandi Modise**

Speaker of South Africa's National Assembly

The keynote address was delivered by **Ms Thandi Modise who is the Speaker of South Africa's National Assembly**. These are some of the points she raised which are divided into international and national perspectives. The entire speech is annexed to this report marked...

Hon Modise expressed how tremendously pleased she felt to be part of this seminal international conference which addresses an international and national emergency, the scourge of Gender Based Violence and Femicide against women and girls. She also expressed how honoured she was to be a part of Ilitha Labantu's 30-year commemoration, a truly distinguished community-based organization which for 30 years had stood its ground and made its mark in serving communities and survivors of violence, building trust and most importantly restoring the dignity of the survivors.

International perspective

When speaking about her international perspective in as far as equal access to justice is concerned, Hon Modise emphasized the truth within the adage "the opposite of poverty is justice" because limited access to justice disempowers individuals and communities from claiming their rights and defending themselves from injustices.

She further stated there are a number of international policies and legal instruments, including the Convention on the Elimination of Discrimination and Against Women (CEDAW) and the Beijing Declaration and Platform for Action, UN Security Council Resolutions on Women, Peace and Security, and their related processes, which emphasize that access to justice for women and girls is not only a right in itself but also an essential factor in the enjoyment of other rights, and a factor in sustaining peace and sustainable development. According to Hon Modise the United Nations (UN) Commission on Legal Empowerment of the Poor tells us that four Billion people worldwide were 'robbed of the chance to better their lives and climb out of poverty, because they are excluded from the rule of law'. Therefore, shining this international lens on strategies to combat Gender Based Violence, and access to Justice is crucial.

The international community for the first time agreed on International targets for justice, when it adopted the Sustainable Development Goals in 2015. For instance, Sustainable Development Goal 16.3 commits the international community to promote the rule of law at the national and international levels and to ensure equal access to justice for all by 2030. Furthermore, the two associated indicators focus on criminal justice and relate to (1) victim reporting levels and (2) the proportion of prisoners awaiting trial. Sustainable Development Goal 16, has a much more ambitious remit, crucially encompassing anti-corruption, institutional reform, good governance, violations of human rights, democratisation, legal identity, freedom of information, and discrimination. Hon Modise said it was her belief that improved access to justice is a clear enabler for many SDGs as it is widely recognised that access to justice is associated with economic growth, investment as well as equity and social justice. She concluded by stating that a functioning justice system provides the foundation for a modern financial sector, and emerging evidence suggests certain benefits for women's ability to access finance.

The United Nations Commission on Legal Empowerment of the Poor research reports reveal, that historically marginalised and poor people globally say that the ability to access justice is one of their top priorities.

At the national level, Ms Modise expressed how tremendously proud she is of the courage and bravery of the women and children of the country even in the face of the many brutal and shocking attacks that have befallen them. She wondered how South Africa has carried on as a functioning society under these conditions. The many examples of atrocious and chilling incidents of VAW abound, and they continue unabated. The fact that parents and caregivers can no longer let their children out of their sight not even for a second lest they are abducted, raped, maimed and killed by a man; often a family friend, a close relative or even a father is deeply concerning. She bemoaned the reported fact that in South Africa that "almost every second of the hour a woman is sexually assaulted and/or killed by their intimate partner, often a husband, a lover, but seldom a stranger" but no justice outcomes have been received in a significant number of those incidences. She also pointed out inequalities in our societies that continue to grow at an alarming rate and called this "one of the tragedies of our times" and called on all the role players to take decisive action. In this regard, she found it encouraging that President Cyril Ramaphosa announced a five-point emergency response plan during an extraordinary joint sitting of Parliament this year to address the Gender Based Violence and Femicide scourge that is currently ravaging South Africa.

Some of the recommendations that Hon Modise made to the Conference included, amongst other things,

The Speaker acknowledged the efforts that the civil society continues to make in the fight to end violence against women and children. In closing, she quoted a demand that was made by the women of South Africa during the seminal Presidential Summit on Gender Based Violence and Femicide in November 2018 which is as follows "Women in this country...have a legitimate claim to walk peacefully on the streets, to enjoy their shopping and their entertainment, to go and come from work, and to enjoy the peace and tranquillity of their homes without the fear, the apprehension and the insecurity which constantly diminishes the quality and the enjoyment of their lives. Yet women in this country are still far from having that peace of mind."

## SESSION 1: OVERVIEW OF APPROACHES AND STRATEGIC DIRECTIONS TO END VIOLENCE AGAINST WOMEN AND GIRLS

**Presenter:** Dr Izeduwa Derex-Briggs, UN Regional Director for East and Southern Africa

Prof Hlengiwe Mkhize, Deputy Minister, Department of Women, Youth and Persons with Disabilities

**Moderator:** Ms Ntutu Mthwana

The session looked at trends in terms of responses to VAWG and discussed the different components of a comprehensive approach (prevention of violence against women, protection and victim/survivor).



### UN WOMEN REGIONAL DIRECTOR FOR EAST AND SOUTHERN AFRICA

Dr Izeduwa Derex-Briggs

**Dr. Derex Briggs** began by acknowledging how painful it was to talk about violence against women and girls. She also congratulated Ilitha Labantu on a well-timed conference on a much-needed subject matter, which is women's equal access to justice. Dr. Derex-Briggs shared some published statistics on Violence against Women and Children. Globally 33% of women have experienced some form of violence by an intimate partner in their lives. She further expressed that these statistics are likely accurate as there are issues with data collection and under-reporting and some of the violence against women and girls take place in places of worship and as such are dealt with privately instead of being reported to law enforcement. She emphasized the great need for a focus on prevention strategies and the need for training of all judges and magistrates' both male and female on how to deal with such cases in a gender sensitive manner. Lastly Dr. Derex-Briggs shared that some countries do not take domestic violence as abuse and that this needs to change.



### DEPARTMENT OF WOMEN AND PERSONS WITH DISABILITIES

Deputy Minister Prof Hlengiwe Mkhize

**Prof Hlengiwe Mkhize, the Deputy Minister of Women, Youth and Persons with Disabilities** reported that the Minister of Police, Mr. Bheki Cele reported that all police stations in South Africa have rape kits. She further reported that we need to understand that trauma causes confusion.

The Deputy Minister said that there is a need for training of the Family violence, Child Protection and Sexual Offences Unit (FCS Unit) members and for training to succeed organizations such as Ilitha Labantu are needed to spearhead this training using the experiences they have in dealing with cases of violence against women and children. The Deputy Minister further called for the strengthening of the Thuthuzela Care Centers (TCCs) as they are an essential component in providing immediate support to women who are victims of sexual violence.

In her closing the Deputy Minister emphasized the importance of government and civil society working together to end violence against women and girls.

#### **PANEL ONE: VIOLENCE AGAINST WOMEN: RECENT TRENDS AND EMERGING ISSUES**

Civil Society plays a huge role in ending violence against women and children and have practical experience and expertise that may be used to fight this scourge. Recognising this, the Conference had a panellist of women from civil society organisations who gave an overview of the different forms of violence against women in the public and private spheres and covered the emerging new forms of violence against women. This panel comprised the following people whose presentation are summarized below:

**#TOTALSHUTDOWN, Ms. Sibongile Mthembu**, appealed for direct and honest conversations about GBV and femicide in South Africa. She also reflected on her childhood experiences with violence and how in her family and community, violence was normalised. Continuing she said that as a country we have normalised gender-based violence, which is not a new thing as it has been happening for many years in South African communities.

**Ilitha Labantu Social Worker, Ms. Zoliswa Mbekwa**, agreed that the forms of violence against women have not changed but the way they take place has changed. In recent times we have seen heightened gruesomeness in which women are being violated particularly intimate partner femicide in South Africa.

Ms. Mbekwa said that we live in a society where men appear to be very angry with women for reasons that are unknown. Ms. Mbekwa reflected on the recent femicide cases that Ilitha Labantu has been directly exposed to and mentioned a case of 34-year-old woman and another of a 14-year-old which both illustrate the anger directed at women in the gruesome nature of how they were killed.

Musasa Projects, Ms. Precious Taru, stated that there is a need for survivor friendly approaches in dealing with the scourge of violence against women and children. Ms. Taru also agreed that the forms of violence against women have not changed but that what is being seen is the increased brutality used by their murderers.



## SESSION 2 & 3: THE RULE OF LAW AND ACCESS TO JUSTICE & EFFECTIVE PROSECUTION RESPONSES TO VIOLENCE AGAINST WOMEN AND GIRLS

Members of the judiciary play an important role in effective responses in cases involving violence against women and children. This session also highlighted the role of the prosecutor and the importance of a victim-centred prosecution strategy in cases involving violence against women and children. The following is a summary of the presentations made by the Members of the Judiciary:



In her opening, **Justice Lisa Ramsumair-Hinds** emphasised the need for sensitization of those that work for the judiciary and how it is their responsibility to deliver justice outcomes to survivors of violence. She further stated that violence against women is a daily life struggle and we can no longer go on looking at it as an incidental issue. Justice Ramsumair-Hinds further shared some of the factors surrounding issues of violence against women and children:

- Acts of violence are gruesome;
- Traditionally assigned to a gender- it is common for men to violate women and children than it is for women to violate men.
- Societal norms that are deeply entrenched in religion- acts of violence are at times encouraged by religion. For instance, in many religions' women are seen as inferior to men and are not allowed to question men and if they do, they are shunned by the entire community.

Justice Lisa Ramsumair-Hinds also reflected on her personal experience of harmful practices. When she was 12 years old her father tried to arrange a marriage for her as was the practice in her country and religion until recently when it was deemed illegal. Through this reflection Justice Lisa Ramsumair-Hinds shared how she at a young age had to stand up to her father and pointed out that it was not her desire to engage in an arranged marriage and the wrongfulness of this practice.

In closing she stressed the importance of wearing a gender lens as a Judicial Officer as that enables them to dispense justice that is victim centric and survivor supportive. Whilst saying this she also acknowledged that it is not easy but emphasised that sometimes protection means acknowledging the victim.



## WESTERN CAPE HIGH COURT

Judge Rosheni Allie

"The judiciary needs to be fierce in protecting witnesses", this was the opening statement made by **Judge Rosheni Allie of the Western Cape High Court**. She continued to say that there needs to be commitment and determination when dealing with cases of violence against women and children. According to Judge Allie many definitions have been attempted, but violence against women and gender based violence are terms bandied around to describe a phenomenon which is: wielding power over women and preying on their inability to physically ward off that specific form of violence which targets, in addition to other parts of the body, their genitalia, specifically so that the perpetrator can gain gratification while demeaning and violating a women's right to bodily integrity in her most private and intimate parts. Judge Allie shared some of the arguments that court often finds themselves confronted with:

- that a sexual offence was not accompanied by physical violence or the woman suffered no physical injuries, bruises or open wounds;
- That she encouraged or "led him on";
- That she has an ulterior purpose in falsely accusing him;
- That they were in a relationship and he had the right to demand sexual gratification from her;
- That she gave her consent, despite being extremely intoxicated or drugged or in a state of fear;
- That she agreed and he gave her money afterwards, often despite her being a child;
- That she has a history of being promiscuous;
- That she acted seductively because she sat in a particular way or wore a particular item of clothing, e.g. a kanga (lose cloth/sarong)
- That she previously lodged a complaint of sexual abuse/rape against someone else, therefore she should not be believed;
- That she did not call out for help, fight back or raise the alarm, while being attacked.

**Judge Allie further highlighted that South Africa also has the following legislation and Conventions in place to combat GBV, they are:**

- The Domestic Violence Act 116 of 1998;
- The Criminal Law (Sexual Offences) and Related Matters Amendment Act, 32 of 2007;
- The Protection from Harassment Act, 17 of 2011;
- The Code of Good Practice on the Handling of Sexual Harassment in the Workplace (2008) created in terms of section 203(1) of the Labour Relations Act No 66 of 1995);
- The Employment Equity Act, 55 of 1998

### **Conventions ratified by South Africa**

- Beijing Declaration and Platform for Action (1995)

- African Union Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003 (Maputo Protocol);
- Convention for the Elimination of all forms of Discrimination against Women (CEDAW);
- SADC Protocol on Gender and Development

**She further mentioned how the sentencing of perpetrators of violence against and children has been questioned a lot lately. Judge Allie gave the conference insight on the sentencing process:**

- Minimum Sentence Legislation already provides for different prescribed minimum sentences depending on whether a perpetrator is a first, second- or third-time offender. However, she also clarified that the lack of previous convictions alone, is not a substantial and compelling circumstance justifying a deviation from the prescribed minimum sentence.
- The Minimum Sentencing Legislation remains a framework that prescribes minimum sentences and not maximum sentences and the courts are free to consider sentences in excess of the minimum if circumstances can be found to justify that imposition.
- In determining an appropriate sentence, courts have to embark upon an exercise of weighing up the ordinary mitigating factors against the aggravating features of the case, such as, the nature and circumstances in which the offence was committed so it is not merely a matter of finding mitigating factors and then deeming them to be substantial and compelling circumstances.
- There is no prohibition on the prosecutor leading expert evidence concerning the impact of rape on the complainant or on survivors in general and NGOs could make themselves available to do so.
- The conclusion that an accused demonstrated remorse is often used as a mitigating factor justifying a lesser sentence.
- There are multiple reasons why an accused decides to plead guilty. It does not necessarily follow as a matter of course, that it demonstrates remorse. Courts have been cautioned to guard against conflating maudlin sympathy with remorse. Courts should inquire into the reasons for the plea of guilty before assuming that it is borne out of true and genuine remorse.
- To explain inconsistencies that exist, I have outlined what judicial officers can do to facilitate access to gender justice.
- In conclusion, the following factors contribute to the disparity in implementation and interpretation:
  - o With politicians, the implementation of government policies and programs depends on financial resources, political will, inclination and a firm resolve to put into action, the proposed programs.

In her closing statement Judge Allie stressed that with judicial officers, conviction of an accused is dependent on the quality of the investigation, the quality of trial advocacy, the presiding officer understands of the issues and willingness to embark on a process of judicial activism and to be more fearless in doing so.



## NATIONAL PROSECUTING AUTHORITY

Advocate Bonnie Currie-Gamwo

According to **Advocate Bonnie Currie-Gamwo** there are Protocols on dealing with violence against women and children developed by the National Prosecuting Authority (NPA) to guide them, but these may not always be communicated properly. Advocate Currie-Gamwo stated that the NPA has a renewed focus on all cases related to gender-based violence; this looks at all femicide cases and states that femicide cases cannot be withdrawn without the approval of a Senior Prosecutor. The NPA according to Advocate Currie-Gamwo also provides training to the SAPS on handling of cases of gender-based violence. Advocate Currie-Gamwo shared that the NPA has opened a review on femicide cases. She further reported that in the Western Cape 314 femicide cases have been withdrawn since 2017. In her closing, Advocate Currie-Gamwo acknowledged that there is a need to improve how the justice system communicates with survivors and secondary survivors of violence against women and children.

### THEMATIC SESSIONS

**These sessions ran parallel and were hosted in separate venues. Each thematic session had a facilitator and each team presented in plenary. These thematic areas were covered:**

- Group 1:** Identifying women's reality in accessing justice through court by moving towards survivor centred approaches – moderated by Dr. Francis Magare, Advocate from WILDAF-TANZANIA
- Group 2:** Call to Justice – moderated by Ms. Emma Raval, Sweden
- Group 3:** Integrating services to better support survivors in the Judiciary as well as national human rights institutions – moderated by Ms. Badikazi Mnotoza
- Group 4:** Addressing toxic masculinity and empowering women and girls – moderated by Advocate Phumeza Futshane, Chief Prosecutor, and South Gauteng High Court
- Group 5:** Tools to improve women's access to justice: approaches and best practices to advance women's access to justice – moderated by Thoko Matshe, Olof Palme



A large, stylized white number '2' is positioned on the left side of the image, spanning across a horizontal band with a repeating pattern. The background is a solid orange color.

DAY

**INTERNATIONAL CONFERENCE**  
ON ENSURING EQUAL ACCESS TO JUSTICE  
FOR VICTIMS OF VIOLENCE AND ABUSE:  
RULE OF LAW IN ACTION





## DEPUTY MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

Mr. John Jeffery

### DAY 2

Mr. John Jeffery first acknowledged Ms. Mandisa Monakali and her plausible contribution towards the development and support of women in our communities. He further acknowledged the progress made by Ilitha Labantu including its contribution in fighting violence against women and children. He proceeded to outline the ERAP which has a five-point plan designed to put in place immediate measures to address GBV&F and these include clearing the backlog of DNA at various forensic laboratories including establishment of new forensic labs as limited infrastructure has contributed to the backlog of sexual offences cases; ensuring there are rape kits in every police station, social behaviour change programs, victim-centric services and the establishment of the Gender Based Violence Council. He further stated that more people who are convicted of rape are currently serving life sentences and that about 2071 women were murdered in the last financial year. He acknowledged that despite these measures' women continue to be beaten up, raped and killed by men who are their intimate partners and not by strangers or gangsters. He also informed the meeting of additional measures that his Department is undertaking to address the scourge of gender-based violence and femicide include, inter alia, the following: •

- The Domestic Violence Act: This is viewed as the best piece of legislation which a State can use to protect women who are abused by persons that they are in a domestic relationship with. He also informed the Conference that the Department is currently in the process of reviewing this piece of legislation to ensure that it better responds to the needs of women who are the majority of those who make use of it. He urged civil society organisations to be part of this review.
- Sexual Offences Courts: according to the Deputy Minister the Sexual Offences Courts were re-introduced following the MATTSO recommendations. Under this model, Sexual Offences Courts are to have, amongst other things, a special court room, a testifying room with CCTV equipment so that victims can testify from a separate room and not have to see the perpetrator while they talk about what happened. These courts are found in various regions in South Africa and have facilities that are supposed to ensure that the victim and her family are protected from intimidation by the perpetrator and that they feel safe during trial. He also talked about the 100-day Rapid Response and Results Driven Initiative and that his Department has set up a Femicide Watch, the first on the African Continent. Whilst government has all these various programmes aimed at preventing and responding to Gender Based Violence and Femicide, it is currently facing resource constraints.

#### SESSION 4: INTERNATIONAL AND REGIONAL LEGAL FRAMEWORK TO ADDRESS VAW



**SOCIAL DEVELOPMENT POLICY DIVISION,  
UNITED NATIONS ECONOMIC COMMISSION  
FOR AFRICA**

Ms Thokozle Rudvidzo - Director

Ms Rudvidzo started by reminding the Conference that States have a primary obligation to comply with international instruments, however, adherence is at risk because of the increased negative sentiments towards multilateralism. In cases of non-compliance with these obligations, States may be reported to International Bodies like the Commission on the Status of Women or the Special Rapporteur on the Status of Women. States' failure to comply with their obligations after having ratified a Convention may result in sanctions being imposed on that country. For example, a country may be reported to the International Criminal Court for human rights violations; however, one must first exhaust all avenues available under domestic laws of her country. South Africa is one of the countries that have ratified these regional and international conventions may be reported in instances where it does not comply with them. Civil society organisations need to acquaint themselves with the procedures to follow when doing so.



**UNIVERSITY OF THE WESTERN CAPE**

Ms. Cherith Sanger

**Ms. Sanger stated that there are a number of barriers to accessing justice for gender-based violence survivors despite the country having enacted a number of laws to prevent and respond to gender-based violence and femicide. She mentioned some of these laws as:**

- The Constitution Act 108 of 1996
- The Domestic Violence Act 116 of 1998
- The Protection from Harassment Act 17 of 2011
- The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007
- The Employment Equity Act 55 of 1998
- The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000

- The Choice on Termination of Pregnancy Act 92 of 1996;
- Combating of Trafficking in Persons Act....; and
- Prevention and Combating of Hate Crimes and Hate Speech Bill of 2016

In addition to these domestic laws, she also highlighted the international regional, continental and international instruments that South Africa has ratified such as the SADC Declaration on Gender and Development which commits SADC countries to take urgent measures to prevent and deal with increasing levels of violence against women;

The Maputo Protocol to the African Charter on Human and Peoples Rights of Women in Africa which provides for the rights to life, integrity and security of the person;

International Covenant on Civil and Political Rights which prohibits sexual violence under the prohibition of inhuman or degrading treatment;

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which prohibits discrimination against women in all forms including violence against women;

Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children which commits States to prevent and combat trafficking in women and children.

**She then proceeded to mention some of these key barriers to accessing justice which include:**

- Bad laws and not women and she emphasised that limited knowledge of one's rights including recourse processes; loss of faith in the criminal justice system by women and children are as a result of countless failures by the system to protect them; fear of retaliation from perpetrators; poor training of the criminal justice system role players including their lack of knowledge and understanding of the provisions of the existing laws;
- Poor fulfilment/implementation of legal duties and roles in the criminal justice system i.e. poor SAPS investigation and poor prosecutions;
- Lack of understanding of the importance of realization of the rights enshrined in our Constitution under the Bill of Rights;
- Culture of abusing power and corruption by the state officials;
- Lack of accountability for failing to fulfil legal or policy duties on the part of the state; and
- Limited specialised and effective support services for GBV survivors.

**As her concluding remarks, Ms. Sanger offered the following recommendations:**

- Decriminalise sex work
- Increase funding for gender-based violence prevention
- Develop and strengthen working relationships with prosecutors
- Increase funding for NGOs and CSOs providing support services (psycho-social support, legal advice and support, court support and court monitoring) for survivors of GBV as they navigate the criminal justice system.
- Increase access to legal advice and support
- Reduce corruption and abuse of power through improved accountability mechanisms for Criminal Justice System role-players
- Visible accountability for CJS role-players who fail to fulfil their legal duties;
- Improve accountability mechanisms at the regional and international levels where States parties make commitments to ensure justice for GBV survivors,



## LAWYERS FOR HUMAN RIGHTS

Ms. Sanja Bornman

**Ms. Bornman** deliberated on the diminution of provision of legal representation to women versus men who are perpetrators but, in the end, receive free legal representation because the Legal Aid South Africa's budget is spent on criminal matters more than civil matters. She noted that cases brought before courts are civil in their nature as they mainly are around domestic violence, child custody, divorce and inheritance.

### WHO GIVES LEGAL FREE LEGAL ADVICE?

It is important to note that NGO's like Lawyers for Human Rights, Legal Research Centre, Socio-Economic Rights Institute, Pro Bono.org, Section 4 and others mostly do impact litigation due to limited resources. Legal representation is expensive, and these organisations cannot afford it as they depend on donor funding which is dwindling. Instead they focus on providing legal advice and limited representation on impact litigation matters where they have detected disturbing trends. Focusing on impact litigation with an aim to change a bad law is more effective as it often results in Parliament being instructed to amend such a law. Also, university law clinics do provide free legal representation but also on few matters due to funding constraints. According to Ms. Bornman the Legal Practice Act can provide an opportunity for more women to receive free legal representation through the Legal Practice Council (LPC). However, one would need to pass the means test in order to receive legal assistance from the LPC otherwise women have to source the service of private attorneys and many women cannot afford these exorbitant attorney fees.

As far as Legal Aid South Africa is concerned, it also has a means test which it administers and only provide free legal representation to those who are unemployed or whose gross monthly income is below R3500. It often takes few civil matters and most of its budget is spend on criminal matters as reported in their last annual report as seen in the table below:

CRIMINAL MATTERS	CIVIL MATTERS
<b>6%</b> of women go to courts as accused as opposed to <b>22%</b> of men.	<b>12%</b> of men go to courts as litigants while <b>22%</b> of women go as litigants and their cases are often related to disputes of custody of children, maintenance, divorce and domestic violence.

This table clearly shows that the majority of Legal Aid South Africa's budget is spent representing men rather than women. Men seem to be disproportionately benefiting from Legal Aid representation. In light of this, Ms Bornman questioned whether this anomaly can be viewed as indirect discrimination against women? She then proceeded to state that a practice, policy or rule which applies to everyone in the same way but has worse effect on some people than others can be said to be discriminatory.

### HOW CAN WE CHANGE THIS?

To address the seeming discrimination of accessing free legal services, Ms Bornman referred to **Section 29** of the Legal Practice Act which provides that community service may be part of a practical vocational training or a requirement for continued enrolment as a legal practitioner. She then suggested that civil society organisations request this service be ring fenced for women and children provided that the legal practitioner undergoing community service works under the supervision of an admitted attorney. These legal practitioners undergoing community service will be candidate attorneys and may be used to assist and represent women in places like domestic violence courts, maintenance courts and on other civil matters distressing women and children. If this were to be done, women would get the much-needed free legal representation whilst the candidate attorneys would have complied with the requirement for practical vocational training as part of their studies.





## SESSION 5: 25TH ANNIVERSARY OF THE BEIJING DECLARATION AND PLATFORM FOR ACTION AND 2030 AGENDA



### FEMNET

Ms. Memory Kachambwa - Executive Director

Ms. Kachambwa stated that 212 representatives of women's rights and civil society organizations in all our diversities, drawn from across the five sub-regions of Africa and the diaspora, gathered in Addis Ababa, Ethiopia from 28th–30th October 2019 to review the progress made towards implementation of the Beijing Declaration and Platform for Action (BPfA). The BPfA is a policy framework on gender equality and women's empowerment and it was unanimously adopted by 189 countries during the 4th World Conference on Women held in Beijing, China in 1995. The 25-year review of the BPfA is being conducted against the backdrop of an eroding Pan-Africanism ideology; Africa's high dependency on foreign aid to finance development projects; increasing illicit financial flows; propagation of xenophobia and extremism under the guise of nationalism and protectionism; migration crisis; totalitarianism and centralization of political and economic powers in the ruling class; shrinking of civic space, freedom of expression and association; weakening trade unions; financialization of social services; armed and unarmed conflicts; increased violence against women, children and minority groups and extreme weather and climate crisis disasters.

Despite the drawbacks, she also acknowledged progress towards realization of women's rights in Africa. She noted the various legal reforms that have taken place to legislate and institutionalize women's rights in different aspects, for example the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) adopted in 2003 and now ratified by 42 countries. Furthermore, she stated that gender equality protection and the prohibition of discrimination based on sex is now entrenched in most national constitutions of African Union Member States. There is also an increase in the enactment of laws that protect women and girls such as labour laws and domestic violence legislation though enforcement of these laws remains a big challenge. However, Ms Kachambwa raised a concern that the legislative reforms in Africa have not altered power relations between women and men. In most countries the status of women and girls remains largely unequal, with men and boys at all levels of society, in both the private and public spaces continuing to enjoy patriarchal privileges while women continue to carry the burden of servicing unequal society. Also, sadly multiple forms of discrimination against women and girls in all their diversities has persisted.

Women with different forms of disabilities continue to be the most excluded despite the number of commitments signed by African governments through Conventions and/or Protocols. She noted that in many African countries and societies, cultural and religious practices supersede national laws, overtly or covertly. She said that she was taken aback by the realisation that the review process of the Beijing+25 has in significant ways, isolated women's rights organizations at national and regional level. Women's rights organizations were 'invited' rather than being an integral part of the review process from planning to reporting; as a result, fewer countries developed alternative (shadow) CSOs reports.



**UN WOMEN SOUTH AFRICA  
MULTI COUNTRY OFFICE**  
Ms. Anne Githuku-Shongwe

**According to Anne Githuku-Shongwe, Beijing +25 is an opportunity to accelerate gender equality. Over the past five years, increasing attention to gender equality has resulted in some gains such as the:**

- Removal of discriminatory laws, with 274 reforms in 131 countries towards gender equality between 2008 and 2017.
- More girls are in school than ever before and more countries have reached gender parity in educational enrolment.
- The maternal mortality ratio (global average) has fallen from 385 maternal deaths per 100,000 live births in 1990 to 216 per 100,000 in 2015.
- Over the past decade, the proportion of births attended by skilled health personnel increased by 12 percentage points.
- Globally, women occupy 24.3 per cent of the seats in single or lower houses of parliament, doubling the level observed in 1995 (12 per cent).

**That said she also stated that it was her opinion that progress has been delayed and even reversed in several areas and these include:**

- The global gender gap in labour force participation has not changed between 1998 and 2018, (31%), while the quality of employment remains of serious concern.
- Rising rates of female education have not shifted deeply entrenched occupational and sectoral segregation in both developed and developing countries.
- Women disproportionately bear responsibility for unpaid care and domestic work the world over, spending three times as much time in unpaid care and domestic work as men, with little sign of care work being reallocated to men.
- Despite, slow and steady gains in women's representation in parliaments in recent decades, women remain locked out of decision-making and leadership roles across all sectors. Globally, in 2018, less than a third (27 per cent) of women are in senior and middle management positions in government, large enterprises and other institutions.
- Violence against women and girls in its diverse forms remains pervasive. Globally, 17.8% of ever-partnered women aged 15–49 have been subjected to sexual and/or physical violence perpetrated by an intimate partner in the previous 12 months, with prevalence increasing to 24 per cent in the least developed countries.
- More than one in three of all women were intentionally killed worldwide, or 68 every day, are killed by their intimate partner.

Norms and Standards to be prioritised in the following capacities:

- These facts indicate that we need to urgently concretise efforts to achieve goals set through various normative frameworks. Aside from the 25th anniversary of the BPfA, 2020 also marks the

5th anniversary of the 2030 Agenda, the 20th anniversary of UNSCR 1325 on Women, Peace and Security, and the end of the African Women's Decade.

- 2020 will therefore be a pivotal year for the accelerated realization of gender equality and the empowerment of all women and girls.
- The gains and gaps also show that global normative instruments such as the Beijing Declaration, CEDAW etc. are crucial to tracking state's implementation of key policy decisions.
- To make normative commitments a reality for all women and girls, a broader set of state institutions require adequate funding, staffing, technical capacity and coordination to advance gender equality policies.

**Ms. Githuku-Shongwe further stated that based on the lessons learned from the implementation of the BPfA, urgent action is required in five priority areas to accelerate progress which include the following:**

1. Putting women's and girls' human rights at the centre of sustainable development;
2. Strengthening gender-responsive and democratic institutions and women's participation;
3. Reconfiguring economic power relations and policies to advance gender equality;
4. Transforming social norms to create cultures of non-violence, respect and equality; and
5. Harnessing the potential of technology for gender equality.

She also stated that intergenerational collaboration is required to end inequality because globally, women are at the forefront of economic, social and environmental justice movements that call for systemic change, with young feminists often taking a leading role – example of #The Total Shutdown in SA. Political leaders can learn from the ways in which these movements work which is across and not in silos, striving not only to advance women's and girls' human rights but seeing these rights as inextricable from ending other forms of discrimination, exclusion and injustice. Such movements are not only challenging inadequate policies, but also confronting the power asymmetries that have led the world to the current point of crisis. The world today is home to the largest generation of young people in history - 1.8 billion. In South Africa, about 49.3% per cent of the population which is almost half of the population is under the age of 25. This translates to over 27 million and projected to increase to 30 million by 2030. Young people who are connected to each other like never, want to and already contribute to the resilience of their communities, proposing innovative solutions, driving social progress and inspiring political change, in urban as well as rural contexts.

Launched in May 2019, UN Women's "Generation Equality: Realizing women's rights for an equal future" campaign is a ground-breaking, multigenerational effort celebrating the 25th anniversary of the Beijing Platform for Action. The campaign is an opportunity to bring together generations of women's rights activists—change makers of all ages and genders—who can help to tackle the unfinished business of the Beijing Platform for Action (empowering women and girls). In particular, we are engaging with today's young people who are seizing this particular time in history when women's rights are at the centre of public discourse; and, thus, the generation who is reimagining economies, societies and political systems, leaving no one behind. Beijing +25 should be used to bring a young generation of gender equality advocates and those who remain on the side lines into the centre of a whole-of-government, whole-of-society effort. Generation Equality is a campaign for swift systemic change, with political will and bold, decisive actions taken on the laws, policies and outdated mind sets that must no longer curtail the voice, choice and safety of women.

Global public conversation for urgent action and accountability for gender equality – the Generation Equality Forum is a global gathering for gender equality, convened by UN Women and co-chaired by France and Mexico, with the leadership and partnership of civil society. The Forum will kick-off in

Mexico City, Mexico, on 7-8 May 2020 and culminate in Paris, France, on 7-10 July 2020. The Forum will take stock of progress and chart an agenda of concrete action to realize gender equality before 2030, as part of the Generation Equality campaign. The Forum will celebrate the power of women's rights activism, feminist solidarity and youth leadership to achieve transformative change. It will be connected in real-time across the world through interactive satellite sessions enabled through technology to maximize participation. South Africa is a proposed site for one of the Generation Equality Satellite Forums. UN Women will seek to leverage this opportunity to ensure a regional voice and outlook. The Forum will reaffirm the value of multilateralism and bring together the leadership and participation of civil society, governments, business, cities, parliaments, trade unions, media and more, focusing on intergenerational and multi-stakeholder partnerships and accountability for scaled-up and urgent action on the critical issues to achieve gender equality.



**DEPARTMENT OF WOMEN, YOUTH  
AND PERSONS WITH DISABILITIES**  
Ms. Ranji Reddy

**FOLLOWING, HEREUNDER IS AN EXCERPT FROM MS. RANJI REDDY'S PRESENTATION:**

The year 2020 marks the twenty-fifth anniversary of the United Nations (UN) Fourth World Conference on Women held in Beijing, China in 1995 as well as the adoption by world leaders of the Beijing Declaration and Platform for Action (1995). The five-year assessment of the adoption of the UN 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs) will also take place this year.

It is a momentous occasion when the world will review the progress made on its accelerated realization of women and girls' empowerment and the achievement of gender equality. The timing of the Beijing+25 review coincides with the 25-year review. The Government has undertaken its twenty-five-year review process emerging with a set of priorities for the country going forward. According to Ms Reddy, the 25 Year Review Report on Women's Empowerment and Gender Equality: 1994-2019 has been the base document chiefly informing the Beijing+25 national review report.

**CONTEXT IN SOUTH AFRICA**

In 1913, women-initiated resistance against the pass laws and in 1956 the Women's March to the Union Buildings to protest against the pass law system took place. Women played a leading role in the Defiance Campaign. In addition, struggles waged by women over centuries have resulted in important strides towards the national goal of a non-sexist society. Also, women played a central role during the process of the Convention for a Democratic South Africa (CODESA) negotiations and the development of the country's interim Constitution. In 1992, the Women's National Coalition took part in the adoption of the Women's Charter in 1994 which served as the basis on which the gender agenda was premised.

## BEIJING + 25 NATIONAL REVIEW PROCESS

The process of preparing the national Beijing+25 report is aligned to the processes undertaken in developing the twenty-five-year review report on women's empowerment and gender equality covering the period from 1994-2019. This assessment is a broad reflection of the progress made toward gender equality over the period under review. The Beijing +25 Year review spearheaded by the DWYPWD is aligned to government-wide 25-year review process. This process was initiated through the establishment of an Inter-Departmental Task Team coordinated by the Department of Planning, Monitoring and Evaluation in the Presidency in 2018. Each sector was required to undertake a review of the progress made, assessing the extent of implementation of legislation, policies, strategies and programs in line with the National Development Plan: Vision 2030; the Medium-Term Strategic Framework 2014-2019; and the Constitution of the country. This 25-Year Review Report on Women's Empowerment and Gender Equality therefore informed South Africa's Beijing+25 Review Report. As a result, the B+25 Report reflects evidence, data, statistics and trends that cover 25 years, and is not confined to the last five years only, showing progress of where South Africa came from, what it inherited pre-1994 and the progress it has made over the last 25 years.

## INCORPORATION OF THE CONSULTATION REPORT

Consultations on the Beijing+25 report have taken place and the report was validated at a National Consultation Meeting held on 29 June 2019. The consultative meeting was attended by representatives from government across the provinces and local government, women's organizations, NGOs, the men's sector; young women's sector; the LGBTQI sector; community-based organizations; academics; researchers; and civil society organizations. Their inputs have been incorporated into the Beijing +25 Report.

## WOMEN AND ECONOMY

In 1994, the democratic government inherited an economy characterized by very high inequality, with high levels of poverty unmatched in other comparable middle-income economies, co-existing with conspicuous affluence.

## WOMEN IN THE JUDICIARY

There has been an increase in the percentage of women judges over the 25 years since democracy from one white woman Judge in 1994 to 35.5% representation in 2018. There are approximately 44% women Magistrates in South Africa, with most of them located as Regional Court Presidents.

## GENDERED BARRIERS TO CREDIT FOR WOMEN

**There are many barriers that impeded women's access to credit and some of these are:**

- Legal constraints;
- Employment and income limitations faced by women;
- Exclusion from policymaking, decisions and influence in financial and economic decision-making
- Attitudes towards women;
- Lack of information and exposure to business and finance environments; and
- Business maturity and financial institution policies.



## SESSION 6: INSTITUTIONAL TRANSFORMATION FOR GREATER ACCESS TO JUSTICE



**Ms. Ravald** firstly stated her delight over the opportunity to be invited to the Conference, and to meet all the participants from different countries. She was also pleased for having been given this opportunity to talk about the work done in Sweden on gender mainstreaming and equal opportunities for men and women in the courts. Ms Ravald noted that she has learned a lot during these days and realised that some of the challenges faced by Sweden are similar to those experienced by African states including South Africa.

### SWEDEN'S JUDICIAL SYSTEM

- Sweden has a total of 80 courts, 48 of which are district courts and 12 administrative courts;
- The Swedish courts have about 7000 employees;
- 55% of Judges are women
- 493 912 cases have been decided so far this year
- The Courts of Sweden are the common organization for general courts, general administrative courts, the rent and tenancy tribunals, the legal aid authority and the Swedish National Courts administration.

**Sweden has had the same policy for gender equality since 1996. The objective of Sweden's Gender Equality policy is that women and men shall have the same power to shape society and their own lives. According to Ms. Ravald there are six sub-goals under the main objective:**

1. Equal division of power and influence - Women and men must have the same rights and opportunities to be active citizens and to shape the conditions for decision-making.
2. Economic equality - Women and men must have the same opportunities and conditions with regard to paid work which gives economic independence throughout life.
3. Equal education - Women and men, girls and boys must have the same opportunities and conditions with regard to education, study options and personal development.
4. Equal distribution of unpaid housework and provision of care - women and men must have the same responsibility for housework and have the opportunity to give and receive care on equal terms.
5. Equal health - Women and men, girls and boys must have the same conditions for a good health and be offered care on equal terms.
6. Men's violence against women must stop - women and men, girls and boys, must have the same right to and opportunity for physical integrity.

Swedish Courts believe that they can contribute the most to goal number 1 – power and influence, and goal number 6 – Men’s violence against women must stop.

44 % of women and 56% of men are elected to Parliament.

Both men and women enjoy parental leave.

Persons found guilty of crime – assault 85% men while women constitute 15%.

Number of female prime ministers: 0

## **GOVERNMENT ASSIGNMENT**

From 2015 to 2018 the Courts of Sweden, among other government agencies, have had a special assignment to gender mainstream the core work of the organisations. Among the 58 government agencies are the tax authority, authority for social insurance, the police authority, the prosecution authority and the armed forces to mention a few. All government agencies must report the effects of their work annually to the government.

In January 2018, the Swedish Gender Equality Agency was opened. The agency’s mission includes supporting the government agencies. For example, government agencies are invited to meetings of the Gender Equality Agency so that they can network and exchange best practices.

## **VISION OF COURTS FOR SWEDEN**

The administration of justice by the Courts of Sweden is of high standard, with hearings that are held promptly and with uniform application of the law. The general public has a high level of confidence in the work carried out by the Courts of Sweden. These Courts have a common vision for their work. The vision also guides the work of mainstreaming gender into the work of the courts. It is believed that the quality of application of the law will be even better if the judicial officers put on the gender lens and this will result in a high level of confidence from the public, women, men and others as one’s experience regardless of their gender, are treated equally when in contact with the courts. Ms. Raval shared her belief that it is important to put down in words in the coming vision for 2020 and the years forward how gender equality is part of the vision. I am afraid not everyone agrees with me on this, it would surprise me if it is not put down in words in the new vision. However she further shared that not everyone in Sweden would agree with her putting gender equality forward for the 2020 vision.

### **Pilot Courts for gender mainstreaming with the following objectives:**

- To investigate challenges with gender equality in the courts;
- Develop methods and activities;
- Obtain experiences that other courts can use;
- The methods that were chosen in order to implement gender mainstreaming in the courts was to work with so called pilot courts. Six courts, both general and administrative courts were chosen. Their mission was to investigate the challenges with gender equality in the courts so as to obtain reliable data on the topic. These pilot courts also had the mission to develop methods and activities for other courts in order to mainstream gender into their work.

**The findings of the pilot court investigation included amongst other things the following:**

- The most common reaction among employees when the work started was "What is the problem?" or "We don't have any problems?" However, when they began to look at themselves with a gender lens. They found inequalities.
- There is a lack of awareness of the role that gender plays in the operation of the court and a strong belief that the courts are neutral, they do not differentiate between men and women. This belief can be quite frustrating when one discovers that they are biased or are prejudicial.
- It is two times more likely for a man than a woman to be sentenced to prison for the same kind of crime. This is according to the statistical survey carried out by the National Council for Crime prevention.
- In the drafting of a judgement it is sometimes difficult to separate the voices of the parties from the voice of the court. It is important to do so, not the least in cases concerning rape or domestic violence, where sexist language and condescending attitudes towards women are being expressed by the parties.
- The professional actors told us that the judges can be more aware of rule techniques and threats.
- The challenges and problems found have been taken care of in the ordinary quality-enhancement work and the work to strengthen public trust and confidence, both at local level at each pilot court and at the national level by the National Courts Administration, in the policy work.

**ACTIONS TAKEN IN SWEDEN**

- An e-learning course on gender mainstreaming was developed for all 7000 employees. The purpose of the course was to raise awareness, on a general level, from being unconscious about your own incompetence to becoming conscious about your own incompetence. An e-education that takes 30 minutes to finish will not solve all our problems, but it can provide a common level of knowledge.
- The findings from the studies about sentencing and the judgments have been discussed at special dialogue forums for executives.
- When it comes to the court building, some smaller changes have been made. For example, one court has created a special room for witnesses and injured parties, purchased technical equipment and initiated a dialogue with the municipality for a safer outdoor environment.
- The courts have had different forums for all staff where they had the possibility to discuss gender equality and dilemmas connected with it.
- Equality issues have become a permanent topic at all dialogues and meetings with prosecutors and attorneys.
- Educate lay judges about gender equality.
- In 2018, the pilot courts work was completed. Currently, all courts are expected to start active work to gender mainstream their courts. To support them to start up their own work, workshops were arranged. The pilot courts participated and shared their experiences. 70 courts participated and most of the courts are now starting their work.

## ACTION PLAN FOR GENDER MAINSTREAMING WITHIN THE COURTS OF SWEDEN

**Sweden has an action plan for gender mainstreaming in the Swedish courts, with four goals:**

- Knowledge about gender, norms, gender mainstreaming and the political goals in this field is going to be high among all staff and is part of all activities within the courts.
- The courts' activities are decided while taking into consideration the political goals in this field and the legal practice is equal regardless of gender. Both men and women have a high confidence in the Swedish courts.
- The courts give the same service and treatment to all persons who come to the court regardless of gender.

All citizens who come in contact with the courts either orally, in writing or in a digital way realise that the courts are gender equal organisations.

## IT'S ABOUT CULTURE AND STRUCTURE

The house symbolizes how gender mainstreaming should be carried out in the existing building, in the existing process where decisions are being made, and not in an out-house at the back yard.

All the parts in the house need to be in place and gender mainstreamed.

Regulation and governance refer to the assignments, requirements and all the rules and regulations that a court is obliged to comply with.

There is also a management processes where aims and objectives are concretized, resources allocated, and goal fulfilment reported.

**Support processes** encompass factors that are needed to make the organization function effectively, departments such as HR, communication and administration linked to research, education and outreach activities are part of this process.

The core process for the courts is the judicial practice. This work is aimed towards the public. The house describes the structure and can help see what needs to be done. Lessons learned from the Swedish model are that it is not enough to work only with the structure. One has to work with the organisational culture as well, such as the norms, values and attitudes of the organisation in order to get a sustainable change. This became extra clear when the hashtag #metoo swept over the world and Sweden. Sweden had all the documents in place, but still women were being sexually harassed.

**Maybe it had been focusing too much on the structure.**

**Ms. Ravald's conclusion from the pilot court work is that the Courts of Sweden have to work with:**

- Developing competence;
- Management, steering and monitoring; and
- Internal attitudes and norms.

**Success factors for this are:**

- Engaged leaders;
- Engaged members of staff;
- Previous experience of working with quality development ;
- #metoo #withwhatright
- Awareness
- Conscious competence



## WOMEN'S LEGAL CENTRE

Ms. Seeham Samaai

**Ms. Sammai** who is a Director and an admitted attorney at Women's Legal Centre began her presentation with the following questions "Do legal arguments that always appropriate law speak to feminist perspectives"? What is a feminist litigation? Where are we going wrong?

She opined that as law students, young women assimilate patriarchal approaches and that the ways of seeing women realities are affected by stereotypes. She stressed that the law should be made conscious of gender oppression in order to enhance women's capacity to change their own situation- rework the discourse. The naming and shaming can be effective. Lawyers need to own up to upholding sexism. The agenda must be informed by women who find themselves in paradoxical complexities.

### WHAT IS A FEMINIST APPROACH TO SEXUAL HARASSMENT?

#### Definition

She defined sexual harassment as the experience of unwanted and unwelcomed sexual interest; Oppressive power constructs that bring greater vulnerability for women. It is also the victimization of women. Hostile environments are created for women. We must understand why women use certain platforms, but women still face structural obstacles because of power dynamics. She also talked about harmful cultural norms, economic risks facing women and a justice system that is a barrier because of broader societal issues. She used the issue of consent to illustrate her point and noted victim blaming, people identifying with the perpetrator, collusion and relationships between comrades as factors limiting access to justice. She said that women should refuse to participate in silencing other women. She said that it is often stated that reporting has broken the silence –but women have never been silent.







### **SOUTH GAUTENG HIGH COURT**

Ms. Phumeza Futshane - Chief Prosecutor

**Ms. Futshane's** opening statement to the attendees of the conference was that families need to be proactive and influential regarding decisions that the government makes on gender-based violence. The family is the founding institution for raising children. Boys and girls must be treated equally. Being a boy does not mean entitlement. Boys should be taught that gender violence is unacceptable. No one has an inherent right over another person. She acknowledged that police stations are not service oriented, and the Police must be taught how to deal with women victims, women in general, and how to take statements. She further recommended that the country invests in good social workers to work with women who have experienced sexual violence and to offer psycho-social support.

## **SESSION 7: IMPLEMENTATION OF LEGISLATION: ENSURING ADEQUATE FUNDING**



### **Ms. Pregs Govender**

Author and Activist

Ms. Pregs Govender reflected on her experiences in apartheid South Africa as a feminist activist. In her reflection Ms. Govender shared that in her years as an activist she had always fought against institutions that side-line women and see women only as bearers and carers of children. She encouraged participants to raise their voices to fight for the justice they deserve.

Ms. Pregs Govender shared that during South Africa's transition from apartheid to democracy between 1992 and 1994, she managed the Women's National Coalition (WNC) campaign for a Women's Charter of Effective Equality. The WNC was a cross-party coalition, initiated by women in the ANC. It involved 90 national organisations and hundreds of local organisations. The WNC's public education, participatory research and media campaign mobilised approximately 2 million women who ensured political will for women's rights in South Africa's Constitution. During the campaign, 'women's issues' in hard news went

from almost zero to daily coverage. Ms. Govender called for civil society organizations to mobilise each other and push forward a unified voice. She said that through mobilisation, civil society organizations had the power to ensure that there is adequate funding not only from the government but the private sector as well, said Ms. Govender.



### GENDER & JUSTICE UNIT, MALAWI

Ms. Chisala-Tempelhof

Within the discussion on ensuring adequate funding **Ms. Chisala-Tempelhof** shared that the Gender and Justice Unit critically explores the tensions between the law and the lived realities of: marginalized and vulnerable populations particularly women (female sex workers, domestic workers, women with disabilities, transgender women, adolescent girls and young women; and, women in conflict with the law); survivors of gender-based violence; children; and sexual and gender minorities.

Ms. Chisala-Tempelhof argued that funding is still a challenge and it is important that civil society comes together to ensure that the government as well as the private sector make funding accessible to civil society organisations, as especially those that work with grass-root communities. Ms. Chisala-Tempelhof further shared experiences of rural, peri-urban and urban slum dwelling women in three traditional authorities in Lilongwe, when it comes to accessing justice. Furthermore, she added that access to justice for rural women in Malawi has since become a priority as for many years their issues have become ruled by tribal leaders that favoured men. Lastly Ms Chisala-Tempelhof emphasised the need for funding for civil society organizations for them to continue doing the work they are doing.



## CONVERSATION ON SPECIAL COURTS AND TRADITIONAL JUSTICE SYSTEMS: PROMOTING EQUALITY AND GENDER JUSTICE TO END VIOLENCE AGAINST WOMEN AND GIRLS



**Professor Nhlapo** stated that many families start with marriage and explained the requirements of a valid customary marriage as compared to civil marriage. He emphasized that both types of marriages are recognized in South Africa. He further defined customary law as the law which governs indigenous people in South Africa and was elevated to the same level as the common law. However, there has always been two versions, the official (distorted) version and living customary law. He then went on to explain the law reform process in South Africa and stated that sometimes the courts may deal with a matter and as result thereof instruct Parliament to either amend or repeal a certain section of a law.

**He then provided an example where court decisions resulted in change in laws through amendments or drafting of new bills:**

- The Bhe and Others V the Magistrate of Khayelitsha judgement which dealt with male primogeniture in which court had to deal with issues of patriarchy. In the cited case the court was asked to deal with issue of female succession under customary law.

Also, Section 3 (1) of Recognition of Customary Marriages Amendment Act deals with the issue of consent and as a result thereof, the age of consent to marriage is now 18 years. This has been done to ensure that the parties that are contemplating marriage appreciate what they are engaging in. For customary marriage to be valid it should be negotiated and entered and celebrated, even if no lobola has been paid.

Professor Nhlapo mentioned some of the important legal moments for women living and working in rural areas and these included the recognition of customary marriages and the reform of customary law of succession. He further stated that law reform is a possible avenue to include the rights of women but that this needed a lot of activism.



## ICAMAGU INSTITUTE

Dr Nokuzola Mndende

**Dr Mndende** started off her presentation with a Xhosa song with conference attendees also taking part and the conference following her in song. She then translated the song into English so that everyone in the conference would understand.

**Her translation of the song was as follows;**

Sorry! Sorry! Myeni wam (I am sorry my husband)

Ndimithe ngempazamo (I got pregnant by mistake)

Wawungekho ngendenje njani (you were not around, what was I supposed to have done)

Dr Mndende then explained the origin of the song; that a certain man had left his wife to work in the mines of Johannesburg. After many years of not seeing or communicating with his wife whom he left in the rural areas of the Eastern Cape, the wife had an extra marital affair and got pregnant. When her husband came back from Johannesburg with nothing and in ill health, he questioned the wife about the child who a product of the extra marital affair and the wife was responded with this song.

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Continuing with her presentation Dr Mndende unpacked the traditional meaning of family by saying that the uncles and aunts were regarded as part of family a contradiction to the western definition of the family which only recognizes a nuclear family. She continued to say that in days past the uncle would dine with the nieces and nephews and no one would fear that they would be raped by the same uncle. Back then there was no distinction that separated boys from girls. Murder and rape were taboo as villagers lived with mutual love and respect for each other.

Then Dr Mndende posed the following questions:

- The definition of law in South Africa, is it based on African or Western believes?
- Nuclear family or people with same genealogy?
- Union of two individuals or two families?
- Definition of umfazi/umendi (married woman) vs iintombi (women within their clan irrespective of their age and marital status)

Dr Mndende is of the opinion that during the advent of independence, the new African regimes run by native Africans surprisingly perpetrated the contempt imposed by Western systems on indigenous society. Instead of using the opportunity of independence to reinstate the supremacy of indigenous

A large, stylized white number '2' is positioned on the left side of the image, set against a solid orange background. The number is thick and has a modern, sans-serif feel.A horizontal band with a repeating geometric pattern of small, interconnected circles or stars in a lighter shade of orange. The word 'DAY' is printed in white, bold, sans-serif capital letters across this band.

DAY

**INTERNATIONAL CONFERENCE**  
ON ENSURING EQUAL ACCESS TO JUSTICE  
FOR VICTIMS OF VIOLENCE AND ABUSE:  
RULE OF LAW IN ACTION



law over and above Western law and society, native African rulers became even more aggressive in suppressing their own civilization. This she said has resulted in the law of the land now being judged from an outsider's perspective. Instead of the foreign law being incorporated into the indigenous law of the land the opposite happened and this has resulted into the customary law being in jeopardy as it has now to be interpreted from the Roman-Dutch Law perspective. The indigenous institutions are no longer made to be the basis of social life and social harmony; hence we find people who are not from royal families pronouncing judgements on members of royal families. According to Dr Mndende democracy is proclaimed by those who accept the supremacy of the Roman-Dutch law.

### **PROMOTING AND ENHANCING THE UNDERSTANDING OF THE APPLICABLE STANDARDS TO ENSURE ACCESS TO JUSTICE FOR WOMEN VICTIMS OF VIOLENCE.**

**The discussions looked at the structural problems within the justice systems that affect the prosecution of cases of violence against women**

**Moderator: Ms Welekazi Stofile**



Ms. Afrika made it clear that the NPA is responsible for criminal prosecutions and it is a separate entity from the Department of Justice and its responsibilities. Ms. Afrika continued to share the vision as well as the mission of the NPA and further stated that the NPA subscribes to the vision of the National Development Plan 2030 (NDP) which sets out a long-term vision for government to ensure that, by 2030, all people in South Africa should be safe. The NDP 2030 further states that this vision can only be achieved if there is a well-functioning criminal justice system in which the police, the judiciary, the correctional services and the NPA work together to ensure that suspects are caught, securely detained where appropriate, prosecuted, convicted if found guilty, appropriately punished and rehabilitated.

**According to Ms. Afrika, the NPA has three strategic objectives, and they are:**

- Ensure vulnerable and intimidated witnesses and related persons are successfully protected;
- Ensure that profit is removed from crime; and
- Ensure threatened witnesses are successfully protected.

Since the inception of the NPA in 1998, Sexual- and Gender Based Violence has always been a priority and it is a key priority in the NPA's strategic plan, said Ms. Afrika.

**Ms. Afrika shared the following structure of the Sexual Offences and Community Affairs Unit (SOCA):**

- Head Office which deals with overall management of the Unit, including strategy development, performance and operational management, enterprise performance management, legislative development, related prosecutorial functions, initiatives regarding programmes and projects and skills development and training.
- SOCA has provincial offices in Eastern Cape, Kwazulu-Natal and Western Cape.
- Provincial / cluster managers for all provinces.
- Senior maintenance prosecutors for all provinces.
- At 55 Thuthuzela Care Centre sites: Case managers, Site coordinators and Victim Assistant Officers (VAO's)

The presentation made by Ms. Afrika prompted a lot of questions from the conference attendees and these questions together with all the other questions that were posed to the panellists are annexed to this report.

**SESSION 8: CRIMES AGAINST WOMEN IN TIMES OF CONFLICT AND POST CONFLICT LEGAL FRAMEWORK**

In addressing the State monitoring and reporting obligations under Security Council Resolutions 1325 and 2122, the CEDAW Convention as well as efforts to support women's access to justice post-conflict, the conference was honoured to have a representative from the Office of the AU Special Envoy on Women, Peace and Security and a representative from the Department of International Relations



Colonel Shaanika started her presentation with sharing the UN definition of Crimes against women in times of conflict. The definition included; rape, sexual slavery (including trafficking of women), forced prostitution, forced pregnancy, forced sterilization, other forms of grave sexual violence, persecution on account of gender as well as war crimes and crimes against humanity. Colonel Shaanika continued to reflect on a meeting that was held in Windhoek (10th Anniversary of the UN Transitional Assistance Group (UNTAG), on the 31 May 2000), where participants discussed the importance of mainstreaming Gender Perspectives in Multidimensional Peace Support Operations. According to Colonel Shaanika the seminar made some declarations (known as Windhoek Declarations), that recommends 'The Namibia National Plan of Action' and urges the Secretary-General to ensure that, appropriate follow-up measures are taken to implement it.

The prevention of Sexual and Gender Based Violence (SGBV) and all forms of abuse in all situations remains an AU Peace and Security Council priority agenda and gender mainstreaming in Peace Support Operations remains an operational tool that enhances the delivery of mission mandate as well as promoting an equal and just society, said Colonel Shaanika. In October 2000, the UNSCR 1325 under the Presidency of Namibia, was unanimously adopted. Colonel Shaanika shared that this was not easy, but due to the push from civil society organisations and some Member States it was made possible. An excerpt of her presentation which focused on the four pillars of UNSCR, normative frameworks and other supporting instruments is found hereunder:

#### **FOUR PILLARS OF UNSCR 1325**

- Participation of women in political governance and in peace and security processes;
- Protection of women's rights and their bodies from SGBV and all forms of violence and abuse;
- Prevention of conflict and physical violence against women;
- Ensure women and girls' specific needs are met in conflict and post conflict, relief and recovery

#### **Normative Frameworks**

Africa has embedded the United Nations Security Council Resolution 1325 into its core instruments on Women, Peace and Security:

- Article 4(l) of AU Constitutive Act (2002): Promotion of gender equality
- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, commonly referred to as "Maputo Protocol" (2003) Article 10: Right to Peace
- The Solemn Declaration on Gender Equality in Africa (SDGEA-2004): urges full participation and representation of women in the prevention, resolution, and management of conflicts in Africa, AU Gender Policy (2009)
- Roadmap for the AU Women's Decade (2010 – 2020)

#### **Other supporting instruments**

- Regional Women Networks (e.g. COCAFEM, Sahel, East Africa): Engaging Regional Heads of State and Government;
- African Network of Women in Conflict Prevention and Peace Mediation (FemWise-Africa) (2017);
- Strengthening African Women's Participation in Peace Stabilization Efforts, Conflict Prevention and at the Peace Table;
- Training of 50 Young Women Mediators (18-19 June 2018)
- Network of African Women Leaders (2017): Inspired by Africa Agenda 2063 and Global Agenda 2030 to mobilize women leadership in peace and security processes;
- Action Plan to deliver on a number of priority areas e.g. silencing the guns by 2020, Promoting women's capacities to participate in peace processes.
- Zero tolerance of women exclusion, exploitation and sexual violence and abuse;
- Support the implementation of all frameworks advocating for full gender parity.

#### **In closing her presentation Colonel Shaanika had the following recommendations:**

- Promoting women's capacities to participate in peace processes;
- Gender mainstreaming in PSO remains an operational tool that enhances the delivery of mission mandate as well as promoting an equal and just society; and
- Bridging the gap between policy and implementation – Office of the Special Envoy (OSE) focus.



## DEPARTMENT OF INTERNATIONAL RELATIONS AND COOPERATION

Ms. Caron Kgomo

**Ms. Kgomo** from the Department of International Relations and Cooperation (DIRCO) stated that the Women, Peace and Security (WPS) agenda ensures that everyone feels safe and is a multi-sectoral approach to women's roles in security processes. According to Ms. Kgomo if the WPS agenda is followed, by 2030 people living in South Africa especially women will walk freely without any fear of being violated. She continued to state that women play a major role in preventing and resolving conflict and that the office of international relations is required to enhance women's participation; protect women's rights across the conflict cycle to reconstruction after conflict. Ms. Caron also stated that DIRCO is finalising the draft National Action Plan on Women, Peace and Security (UNSCR1325) and that South Africa has been at the forefront of promoting women's roles in peace and security.

Concluding her presentation, Ms. Kgomo urged the attendees to look inwards and further stated that women are the first to know when the community is going to burn. She said that impunity has to be prevented.

At the end of her presentation, the delegates recommended that DIRCO shares the draft National Action Plan report. It was further recommended that in each Defence Force, the office of the Civil-Military Relations needs to be made aware and understand the need for gender mainstreaming.

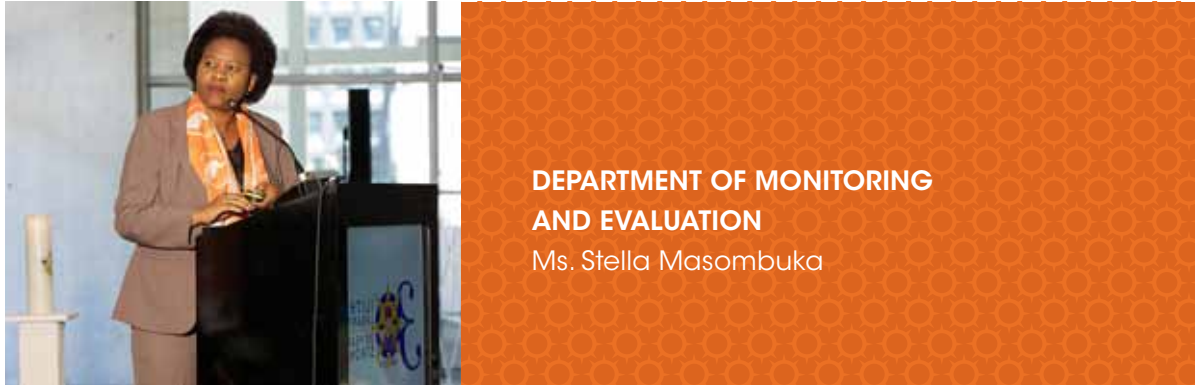




## SESSION 10: IMPLEMENTATION OF LEGISLATION: MONITORING AND OVERSEEING GOVERNMENTAL ACTION

### Moderator:

This session looked at the role of government departments in monitoring progress and overseeing government actions in relation to the implementation of legislation.



**Ms. Stella Masombuka** informed the meeting that the nation becomes more accepting of people's multiple identities. The following steps according to Ms. Stella Masombuka need to be taken;

- Inclusive economic growth- equal opportunities, inclusion and redress;
- Sharing common space by interacting across class and race;
- Enhance capabilities; and
- Create a capable, prosperous state through equality;

Ms. Stella Masombuka further stated that there is a need to prioritize economic transformation and monitor if services are provided in a dignified manner, and this should start with internalisation of the National Development Plan.

The DPME reported that they use the monitoring framework and do evaluations. They recently assessed government's response to gender-based violence. The DPME designed an essential package of services to address gender-based violence that are guided by the standards of the DPME.

The DPME also reported that when #TOTALSHUTDOWN happened the department had just finished its evaluation of government's response to GBV. She reported that the department reports every week on the emergency plan on GBV. Ms. Stella Masombuka urged the conference to hold the government accountable. She emphasized the urgent need for rape kits to be made available at all police stations and that civil society organisations also need to do monitoring and social audits as that also informs the government on whether the measures, they undertake are effective or not.







**WILDAF- TANZANIA**  
Dr Francis Magare

According to **Dr. Francis Magare** the role of the judicial system in advancing the rule of law and access to justice is immensely vast. When viewed with a human rights lens, and judicial activism to a certain extent, judicial officers are set to “walk the talk” of state obligations internationally and domestically. She said that she is certain of the fact that in Tanzania the courts established some approaches and best practices, based on women’s legal empowerment.

**Among many others, the following remain plights:**

- The outcomes of the legal processes often fall short of those envisaged;
- Domestic violence is not criminalized;
- Statutory rape of a child is hidden into child marriage, and
- Exclusion of women in inheritance and property rights.

The formal and informal justice systems have maintained the status quo on patriarchy. Dr Francis Magare shared ways in which the judiciary can be empowered and he presented these as follows: The marginalised are partners. It does not say “I will solve this problem for you,” but rather “I will work with you to solve this problem and give you tools with which to better face such problems in the future. For example, a court-sanctioned accessibility of lawyers for legal aid to vulnerable people is a typical practice in Tanzania following the enactment of the Legal Aid Act in 2017.

Courts utilizing the overriding objective principle of law, passed the Written Law Miscellaneous Amendments Act No. 3 of 2018 and used videos to popularize it and called on the courts to administer the substantial justice. In order to make the courts user friendly to vulnerable people, the Chief Justice promulgated the Judicature and Application of Laws (Practice and Procedure of Cases Involving Vulnerable Groups Rules), GN No. 110 in 2019.

Based on observation and available jurisprudence, the role of judicial systems in advancing the rule of law and access to justice is “to walk the talk” of adherence with both international and domestic legal obligation of states. The judicial system is under obligation to translate the law beyond the letter. He further stated that this is possible despite challenges born on technical hierarchy, especially with conflicting decisions and absence of laws addressing specific issues of gender-based violence and specific family courts.

He concluded his presentation by saying “Our lives begin to end the day we become silent about things that matter”.

## PLENARY: WORKING TOGETHER ON PRIORITY ISSUES

In identifying priority issues, the working team looked at the emerging issues that came out of the three-day conference. Ms. Anne Githuku-Shongwe reported that it is time for action and many times in conferences declarations are set but there is no follow up and implementable actions.

**The emerging themes from the conference were as follows:**

- The lack of access to Justice;
- Funding: there is a need for a strategy and proposal for core funding for violence against women and children;
- Advocacy and Lobbying: it was identified that there is a need for a joint seating of civil society on issues of violence against women and children;
- Coalitions and Coordination;
- Capacity Enhancement: Legal rights awareness, challenging gender norms, and engaging public servants;
- Legal Framework: Interpretation, localizing, engendering- making the legal frameworks accessible;
- Governance: consultation, participation, cooperation, collaboration and partnerships;
- Review of existing legislation to ensure that they are gender sensitive.

Ms. Githuku-Shongwe and Ms. Rudvidzo urged the conference to prioritize the emerging themes and make a pledge as to what they can assist with as individuals and as organizations.



**HONOURABLE DEPUTY CHAIRPERSON  
OF THE NATIONAL COUNCIL OF PROVINCES**  
Hon Ms. Sylvia Lucas

## SESSION 11: CLOSING SESSION

Honourable Deputy Chairperson of the National Council of Provinces, Hon Ms. Sylvia Lucas

In her closing address Hon Sylvia Lucas acknowledged the low intensity war against the most vulnerable. She emphasised that prevalence of GBV in South Africa is higher than the global average and that this epidemic threatens the country's developmental goals.

Hon Lucas emphasized the need to galvanise a front of activist organisations that will require integrated planning and response agendas. She also mentioned the need to address negative and patriarchal attitudes towards women and girls that promote violence against women and girls and ensure that councillors within our communities have skills to work against this scourge of GBV. She pledged her support to the President's Emergency Response Action Plan noting the need for immediate action and called for equality in South African institutions. Lastly, she informed Conference participants that government is currently reviewing the Women's Charter and highlighted the need for the country to build a culture of consent and to develop young men to become people that we can be proud of in the future.

**CLOSING REMARKS BY THE DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES (NCOP),  
ON THE OCCASION OF HOSTING THE INTERNATIONAL CONFERENCE ON "ENSURING EQUAL ACCESS  
TO JUSTICE FOR VICTIMS OF VIOLENCE AGAINST WOMEN AND GIRLS" BY ILITHA LABANTU**

**27 -29 NOVEMBER 2019**

**Founder/ President: Ms Mandisa Monakali**

**Speaker of the National Assembly: Ms Thandi Modise**

**Office of the AU Special Envoy on Women, Peace and Security**

**National Prosecuting Authority: Adv Batohi**

**Distinguished Guests**

Allow me to take this opportunity to thank Ms Mandisa and her collective in providing ground-breaking educational programs and services that support and empower women and children in the black community and rural areas. Ms Mandisa, you and your collective continue to inspire communities to be their own liberators. For years you have mobilised our communities against the scourge of women and child abuse.

Despite the persistent and continuous effort your organisation and many others, put in place to address Gender Based Violence in the Region and Globally, with policies and Legal Framework in place. This epidemic continues to worsen and claim the lives of many women and children.

Women and children abuse is among the most severe and widespread human rights violation in Southern Africa. Globally 1 in 3 women have experienced Gender Based Violence at some point in their lives, and in the Region some countries register levels that are even higher than global average. SADC, like other regions, faces different challenges in the response to Gender Based Violence including amongst others ineffective prevention initiatives, under-reporting of Gender Based Violence cases, impunity, inadequate coordination and implementation of policies and laws. The Gender- Based Violence epidemic is a serious impediment for efforts to achieve national, regional, continental and global developmental goals.

**Madam Mandisa Monakali**, allow me to also agree with you when you say "We conveniently refer to the attack on women as Gender-Based Violence. This is too vague, too complicated. We should call things by its actual name. What we are experiencing is an attack by men on women and children. The body of a woman has become a battlefield.

We need to decolonise our thinking, deconstruct the idea of patriarchy and begin to reconstruct a new way of thinking about gender equality as a norm. In other words, we need to move for a total paradigm shift in our thinking, practices and perspectives and we ask our courts to join us in this journey.

The state or government alone, or one group or organisation for that matter, cannot eradicate or stop the scourge of gender-based violence. It requires all forces of society.

We must actively forge a front of broad range of women's formations and organisations at the forefront of the struggle against patriarchy and gender-based violence.

It means we must build effective, integrated planning and response systems for gender-based violence.

We must deal away with weak forms of coordination and collaboration within and across spheres of government and the broader NGOs movement.

We must have a multi-dimensional approach that focuses on all aspects which propel gender-based violence and we must stop sectorial attitudes.

We must ensure that the Integrated Development Plans of all municipalities reflect the needs and aspirations of a gender equal society as well as clearly articulated women's specific issues. **We must hold Mayor Plato and many other mayors accountable.**

Ward Committee Meeting must be used as a vehicle to increase awareness and understanding of gender and gender issues facing men and women.

Ensure that officials and councillors have the ability and capacity to develop strategies, plans, services and budgets that are gender sensitive, non-discriminatory and contain interventions that specifically target or benefit women.

### **Distinguished delegates**

Parliament supports the emergency interventions outlined by President Cyril Ramaphosa aimed at fighting the scourge of Gender Based Violence. We agree with many speakers in this conference that the time for dialogue is long gone, what is needed now is action that will ensure that we deal decisively with this scourge.

Regarding the Emergency Plan, we welcome the statement by the **Deputy Minister of Justice and Correctional Services, Minister John Jeffery**, that initiatives have been put in place to provide training on gender sensitivity to law enforcement officials at all levels.

We further welcome redirecting resources for the purposes of strengthening Family Violence, Child Protection and Sexual Investigation units of SAPS is welcomed and it is development that will ensure a focused approach to policing on Gender Based Violence.

As the arm of state that is seized with the responsibility of overseeing the implementation of policies and legislation aimed at uprooting gender based violence, Parliament has a particularly important role to play in this fight.

We must **infuse a quarterly**, issue based **GBV and Femicide Oversight week into our Committee Oversight Week** ambit. This will provide a platform for tracking the implementation of commitments made, while advancing outcome based oversight. We will manage to track claims made by **Ms Bosa Ledwaba**, that in North West majority of Police Stations do not have Rape kits.

We must also **infuse an annual GBV Provincial Week** into the NCOP programme. This issue based Provincial Week will allow Parliament to assess the mechanisms and resources in place such as shelters for victims, while assessing how allocated GBV budgets are actually spent towards response programmes in each province.

SPEAKERS		
SURNAME	NAME	ORGANIZATION/INSTITUTION
Allie	Judge Rosheni	Cape Town High Court
Amar	Consular General Laurent	Consulate of France in Cape Town
Bornman	Ms. Sanja	Lawyers for Human Rights
Briggs - Derex	Dr. Izeduwa	UN Regional Director for Eastern Southern Africa
Chisala - Tempelhof	Ms. Sarai	The Gender & Justice Unit Malawi
Currie - Gamwo	Adv. Bonnie	National Prosecuting Authority
Futshane	Ms. Phumeza	Johannesburg Magistrate Court
Githuku - Shongwe	Ms. Anne	UN Women South Africa Multi Country Office
Khachambwa	Ms. Memory	FEMNET (Kenya)
Khambule	Adv. Praise	Dept. of Justice and Constitutional Development
Jeffrey	Mr. John	Dept. of Justice and Constitutional Development
Lucas	Ms. Sylvia	National Council of Provinces
Magare	Adv. Francis	WILDAF (Tanzania)
Matshe	Ms. Thoko	OLOF Palme Center (Sweden)
Kgomo	Ms. Caron	Dept. of International Relations & Cooperation's
Govender	Ms. Pregs	Human Rights Activists, Author
Mdende	Dr. Nokuzola	Icamagu Institute
Masombuka	Ms. Stella	Department of Planning and Evaluation
Mthembu	Ms. Sibongile	#TOTALSHUTDOWN
Nhlapo	Prof. Thandabantu	University of Cape Town
Ravald	Ms. Emma	Swedish Courts Consultant
Ramsumair - Hinds	Judge Lisa	Trinidad & Tobago Court Judge
Ruzvidzo	Ms. Thokozile	UN Women
Sengar	Ms. Cherith	University of the Western Cape Faculty of Law
Sammai	Ms. Saheem	Women's Legal Centre
Shaanika	Col. Theophilia	African Union (AU)
Taru	Ms. Precious	MUSASA (Zimbabwe)
Tyolwana	Ms. Nonkosi	Cape Peninsula University of Technology (CPUT)
Reddy	Ms. Ranji	Dept. of Women, Youth and Persons with Disabilities
Modise	Ms. Thandi	Speaker of the National Parliament of the RSA
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Baitlotli	Ms. Mlangeni Magdeline	Bomme Dinatla
Basson	Ms. Maria	St. Mary's Home of Hope
Bernard - Zemura	Ms. Sindy	Southern Africa Embrace Foundation
Blakely	Queen Mother Dr. Delois	Ambassador of Goodwill in Africa, Community Mayor of New York
Bosjan	Esther	Ashton
Bothman	Irene	Ratanang Victim Support Centre
Dondo	Ms. Comfort	Phumulani: African Women Against Violence
Manata	Cllr Sharon	Ward 41 Councillor
Carstedt	Ms. Linda	Medlefors Folkhogskola
Conjwa	Ms. Nozuko	Nonceba Shelter for Abused Women
Trainerel	Ms. Marie	Consulate of France in Cape Town
Dlamini	Ms. Nonhlanhla	Swaziland Action Group Against Abuse- SWAGAA
Daniels	Ms. Patsy	Lerato Projects
De Vries	Ms. Faldiela	Manenberg People's Centre
Dibazana	Mr. Mzwandile	Office of the Deputy Chairperson of the National Council of Provinces
Msumza - Nongalaza	Ms. Hope	Faith Based Organization
Fester	Prof. Gertrude	University of Cape Town
Gertse	Ms. Lianga	Ashton
Huna	Ms. Lungisa	Trust for Community Outreach and Education
Kiewiets	Ms. Damaris	University of the Western Cape
Kombela	Ms. Kholeka	Rise 7 Shine Elderly Club
Kambule	Ms. M	Committee on Multi-Party Women's Caucus
Jobson	Dr. Marjorie	Khulumani



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Hlati	Ms. Okuhle	Cape Times
Mariam	Ms. Makosana	Bambisanani for Social Development
Makwela	M. Nokwanda	Faith Based Organization
Mangenene	Ms. Hetta	Ashton
Mazingane	Ms. Dorothy	Women of Purpose
Mantakana	Ms. Fezeka	Peddie Women's Support Centre
Micheal	Mr. Mangisa	Faith Based Organization
Makhene	Ms. Nthofela	Ukuthula Advice Centre
Mamugubudi	Ms. Bridgette	Litshani Vhana-Vha-De Foundation
Masunda	Ms. Mercy	Southern Africa Embrace Foundation (Canada)
Marumo	Ms. Nkhabela	Ilitha Labantu Board
Mbembe	Ms. Nomonde	Disabled People of South Africa
Mbele	Ms. Norma	Tosunga Banninga
Mbelu	Ms. Phumla	Ubuntu Crisis and Family Centre
Mdletshe	Mr. Mduduzi	Faith Based Organization
Mnotoza	Ms. Badikazi	Faith Based Organization
Nkoloza	Ms. Busiwe	Women's Legal Centre
Mototjane	Mr. Moeketsi	Faith Based Organization
Mogara	Ms. Lebo	Iteke O Direle Sechaba Batlharos in Kuruman
Mookwa	Mr. Tapelo	Ilitha Labantu (Northern Cape)
Mofokeng	Ms. Wendy	Bakgala ba Kgafela Tribal Authority
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Morapedi	Ms. Olebogeng Ruth	Ogorgeous
Muller	Ms. Marthe	SAWID
Mtuta	Mr. Lukhanyo	Weekend Argus
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Stofile	Ms. Welekazi	Tswaranang
Sekoba	MS. Ndivhuho	ANCWL Gauteng
Sharif	Ms. Nazley	Committee on Multi-Party Women's Caucus
Sonti	Ms. NP	Committee on Multi-Party Women's Caucus
Tsukudu	Ms. Phuti	Advisory Board Member
Tyolwana	Ms. Nonkosi	Cape Town University of Technology
Thwala	Ms. Irene	SAWID
Van der Merwe	Mr. Hermanus	Cape Town Magistrate Court
Van de Schaff	Ms. Gahsiena	Excelisior High School
Young	Ms. Geraldine	Mitchell's Plain Crisis
Yeko	Ms. Thandiwe	Cala Domestic Violence Unit
Zenzile	Ms. Christabella	Disabled People of South Africa
Zittel	Ms. Sophia	iThemba Labantu Lutheran Community Centre
Ramagoshi	Ms. Mmabatho	Department of Women, Youth and Persons with Disabilities
Assubuji	Ms. Paula	HBS
Jenneker	Mr. Ashwell	STATS SA
Hofmeyer	Ms. Beatie	Education and Training Unit
Isaacs	Ms. Lisa	Participant
Gamat	Mr. Jacobs	Participant
Moses	Ms. Ragenia	Participant
Sithole	Ms. Nkosazana	Participant

## PARTICIPANTS

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Biko	Ms. Nokuthula	Participant
Sminini	Ms. Zanele	Participant
Davani	Ms. Khwezi	Participant
Buhlungu	Ms. Nadi	Participant





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