

## **COVID-19 Gender-Based Violence Policy Tracker**

### **Policy Briefing Paper: South Africa**

#### **Working Paper # 3**

The Policy Briefing Papers in this series are a set of Working Papers. They are authored by volunteers and have benefited from a network of scholars, anchored by Merike Blofield (GIGA) and coordinated by Asma Khalifa (GIGA)\*, and provide a strategic input to the Lancet Commission on Gender-Based Violence and Maltreatment of Young People, co-chaired by Flavia Bustreo and Felicia Knaul.

The Working Papers were developed as a resource for policy-makers, advocates and scholars, to explore and assess key policy responses enacted following the onset of the COVID-19 pandemic and to support the formulation of policy recommendations to better address GBV in the future.

The Working Papers are not peer-reviewed, do not represent the views of the respective institutions or the Lancet Commission, and are not meant to provide a comprehensive or systematic analysis.

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## **The Scope of the Policy Briefing Papers**

The policy briefing papers cover government policies to address *violence within the household*, a specific risk during the COVID-19 pandemic, with social distancing and shelter at home policies, combined with the increased financial and mental stress caused by the pandemic and associated policies.

Early in the pandemic, the Center for Global Development published a working paper that highlights potential policy solutions likely to be effective (Peterman et. al., 2020). The policy briefs build on the policy dimensions identified in this working paper. Each policy brief addresses the following measures, to the extent possible:

National-level government policies on the following dimensions, pre- pandemic and since the onset of the pandemic:

- GBV-related hotlines in operation in early 2020; changes since March 2020
- GBV-related communication campaigns implemented in early 2020; changes since March 2020
- GBV- related physical first-response health and legal services; changes, since March 2020
- GBV-related social protection policies in early 2020; changes since March 2020
- Shelter and temporary housing for survivors; changes since March 2020

The briefs conclude with a set of proposed policy recommendations.

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# Working Paper # 3<sup>1</sup>

## South Africa:

### Policy effort on violence against women and children/domestic violence before and since COVID-19

Zaheda Mohamed<sup>2</sup>

#### Introduction

"There is a dark and heavy shadow across our land. Women and children are under siege," President Cyril Ramaphosa said, describing South Africa as one of "the most unsafe places in the world to be a woman".<sup>3</sup>

In a plea to the country and a commitment to finding solutions he further expressed his disgust, describing the crisis as, "a war being waged against women and children".<sup>4</sup> South Africa's history with violence against women and children (VAW/C) in all forms is an ongoing and escalating battle. Showing the highest rape statistics since 2004, in 2021 the country remains at the top of the list in the world reporting 132.4 incidents per 100,000 people. Despite, Parliament's attempt to curb the high rates of VAW/C amending and strengthen sexual violence laws through the Criminal Law (Sexual Offences and Related Matters) Amendment Act in 2007, the rates of reported rape, sexual abuse of children, and domestic violence have continued to rise.<sup>5</sup>

With sixty per cent of the population in Africa under 25, Africa is the youngest continent.<sup>6</sup> Children and adolescents wellbeing is critical not only to the development on the continent but its impact globally. On the second year of the pandemic, VAW/C remains one of the main challenges for African children. In 2020 it was estimated that an additional 142 million more children fell into poverty, increasing the risk of children being exposed to various forms of violence. Millions more children are likely to enter child labor, an additional 13 million girls are at risk of child marriage over the next decade and a surplus of 2 million cases of female genital mutilation.<sup>7</sup>

For children and adolescents, the legacy of South Africa's past, the high rates of HIV - which left many children without parents placing them at further risk in child-headed households, and the continuous

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<sup>2</sup> With comments and feedback from Merike Blofield, Shanaaz Mathews and Nicholas Metheny.

<sup>3</sup> "South Africa: Violence against Women like a War - Ramaphosa." *BBC News*, BBC, 18 Sept. 2019, [www.bbc.com/news/world-africa-49739977](http://www.bbc.com/news/world-africa-49739977).

<sup>4</sup> Powell, Anita. "South Africa Struggles with 'Second Pandemic' of Violence Against Girls, Women ." *Voice of America*, June 2020, [www.voanews.com/africa/south-africa-struggles-second-pandemic-violence-against-girls-women](http://www.voanews.com/africa/south-africa-struggles-second-pandemic-violence-against-girls-women).

<sup>5</sup> Maluleke, Risenga. *Crime Statistics Series Volume V - Statistics South Africa*. Statistics South Africa, June 2018, [www.statssa.gov.za/publications/Report-03-40-05/Report-03-40-05June2018.pdf](http://www.statssa.gov.za/publications/Report-03-40-05/Report-03-40-05June2018.pdf).

<sup>6</sup> [UN Special Representative of the Secretary-General on Violence Against Children](https://violenceagainstchildren.un.org/content/africa)  
<https://violenceagainstchildren.un.org/content/africa>

<sup>7</sup> [UN Special Representative of the Secretary-General on Violence Against Children](https://violenceagainstchildren.un.org/content/africa)  
<https://violenceagainstchildren.un.org/content/africa>

onslaught of violence in all forms and cyber bullying, are major contributory factors to governments increasing challenges.<sup>8</sup>

COVID-19 has exacerbated South Africa's pre-existing socio-political and economic issues, defined by inequality, poverty and unemployment. A level 5 lockdown in South Africa went into effect on the 26 March 2020 until 30th April 2020 and was enforced by the police and military. During this time, people were not allowed to leave their residences, other than for medical attention and essential goods and services (Republic of South Africa, 2021). It has been described as one of the world's strictest lockdowns (Magome, 2020).<sup>9</sup>

Perhaps most unique to South Africa's COVID-19 response was the government's policy to ban Alcohol. While this approach may have been criticized, it played a significant role in enabling the availability to hospital emergency rooms. Hospitals reported fewer emergency cases particularly over weekend periods when the abusive relationship with alcohol leads to increased intakes due to violence, including abuse against women and children. The drop in emergency room cases has no bearing on the number of cases for VAW/C during this time, as numbers did rise. Other studies that reviewed the patient register at a hospital emergency department in Johannesburg, from February to June 2019 and the same period in 2020, note that cases of trauma from interpersonal violence decreased by 25% year over year. However, results are not statistically significant, nor are they sex-disaggregated or disaggregated by type of violence.<sup>10</sup>

Domestic violence and even rape are highly underreported in the country due to fear of further victimization by perpetrators and the lockdown made it even more challenging. Forcing perpetrators and survivors to stay in the same physical confines has caused incidents of domestic violence and abuse to increase in number, frequency and intensity.<sup>11</sup> Director of the Children's Institute Prof. Shanaaz Mathews reports, "when children experience abuse (physical and sexual) my work on disclosure has shown that children first are at risk from parents in their home therefore choosing who they tell is important - relationships with teachers and other adults in their support system is critical and COVID disrupted children's routine support services as they don't easily have access to helplines and schools were closed until August - leaving children at increased risk and vulnerability."

In October 2020 UNICEF South Africa reported that Children in South Africa face an increased risk of abuse and violence, because of the broad ranging impact of COVID-19, according to UNICEF South Africa and child protection partners. The alarm has been raised after Childline South Africa reported a more than 36.8% increase in calls for help during August 2020, compared with the same month in 2019. This data coincides with reports from healthcare facilities of a consistent and concerning number of severe injuries among child abuse referrals.<sup>12</sup>

In September 2019 the Commission on the Elimination of Discrimination against Women (CEDAW) was asked by civil society organizations to conduct a confidential inquiry into allegations that women in South Africa were subjected to extreme levels of domestic violence. As part of the inquiry, they found that out of

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<sup>8</sup> "Child Protection." *UNICEF South Africa*, UN, 15 June 2021, [www.unicef.org/southafrica/child-protection](http://www.unicef.org/southafrica/child-protection).

<sup>9</sup> Lesley Gittings, et al, (2021) 'Now my life is stuck!': Experiences of adolescents and young people during COVID-19 lockdown in South Africa, *Global Public Health*, 16:6, 947-963, DOI: [10.1080/17441692.2021.1899262](https://doi.org/10.1080/17441692.2021.1899262)

<sup>10</sup> "Violence Against Women and Children During COVID-19— One ..." *Violence Against Women and Children During COVID-19— One Year On and 100 Papers In A Fourth Research Round Up*, Center for Global Development , Apr. 2021, [www.cgdev.org/sites/default/files/vawc-fourth-roundup.pdf](http://www.cgdev.org/sites/default/files/vawc-fourth-roundup.pdf).

<sup>11</sup> Oxford Human Right Hub, Jade Weiner - 26th April 2020, COVID-1919, and Domestic Violence in South Africa

<sup>12</sup> "Children at Increased Risk of Abuse and Violence, as COVID-19 Takes Its Toll." *UNICEF*, United Nations, 22 July 2021, [www.unicef.org/southafrica/press-releases/children-increased-risk-abuse-and-violence-COVID-19-takes-its-toll](http://www.unicef.org/southafrica/press-releases/children-increased-risk-abuse-and-violence-COVID-19-takes-its-toll).

143, 824 requests for protection orders in 2018-2019, only 22,211 were granted – and in many of these cases, the protection order just instructed the abuser to sleep in another room in the same house.<sup>13</sup>

In April 2020, after just the first week into the lockdown, Police Minister Bheki Cele announced that the police had received more than 87,000 gender-based complaints, of which 2,230 were gender-based violence cases, 30% more than for the same dates in 2019.<sup>14</sup> Amnesty International reported that by mid-June 2020, 21 women and children had been killed by intimate partners in the country.<sup>15</sup>

Special Rapporteur to the United Nations (UN) on the Right to Health Dr. Tlale states that the SA government failed to address GBV due to a lack in coordination between government departments on the issues of violence and their COVID-19 response also failed to integrate a violence response to consider a screening process for identifying violence. As a result, laws, policies, funding, and resourcing have not been available and adequate.<sup>16</sup> She adds that what is happening in South Africa and was most prevalent during the lockdown is amongst other issues, a dysfunctional criminal system subjecting victims to even further abuse – resulting in their resignation to a system that is failing them and being returned to even further abuse from perpetrators. She adds that even educational and other institutions did not consider the consequences for victims when they just shut down.<sup>17</sup>

In May of 2020, President Ramaphosa said, “We will spare no effort until this country’s women and children are safe, can live, work and play in freedom, and their rights upheld”. Those rights must be protected even in times of crisis.<sup>18</sup>

A year later, in May 2021 UN women’s rights committee reported that South Africa’s low levels of prosecution and conviction in domestic violence cases and the frequent failures by the police to serve and enforce protection orders, exposed survivors to repeated abuses and resulted in the violation of women’s fundamental rights.<sup>19</sup> Phumzile Mlambo-Ngcuka, the Executive Director of UN Women, highlighted the increasing instances of violence against women and girls during the COVID-19 pandemic, calling it a shadow pandemic.<sup>20</sup>

Dr. Mofokeng in her most recent report to the General Assembly outlines the multiple forms of violence and the policies, laws and practices that prevent women from receiving support, protection and their rights to safety adhered to. She states that, “the spread and impact of COVID-19 have shown more than ever how

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<sup>13</sup> UN Experts in South Africa.” *South Africa: Failure to Tackle Domestic Violence a Violation of Women’s Rights – UN Experts*, United Nations, May 2021, [southafrica.un.org/en/127070-south-africa-failure-tackle-domestic-violence-violation-womens-rights-un-experts](https://southafrica.un.org/en/127070-south-africa-failure-tackle-domestic-violence-violation-womens-rights-un-experts)

<sup>14</sup> The Presidency, Republic of South Africa, From the Desk of the President Statement, President Cyril Ramaphosa, 13 April 2020, <https://mailchi.mp/presidency.gov.za/president-desk-mon13apr20>

<sup>15</sup> Amnesty International, Treated Like Furniture gender-based violence and COVID-19 response in Southern Africa, 2021, [www.amnesty.org/en/documents/afr03/3418/2021/en/](https://www.amnesty.org/en/documents/afr03/3418/2021/en/).

<sup>16</sup> Mofokeng Tlale, Special Rapporteur to the UN on the Right to Health (SA), Interview, New York/South Africa, 14 June 2021

<sup>17</sup> Mofokeng Tlale, Special Rapporteur to the UN on the Right to Health (SA), Interview, New York/South Africa, 14 June 2021

<sup>18</sup> Shanaaz Mathews, Lucy Jamieson and Lehlogonolo Makola. “Our COVID-19 Strategy Must Include Measures to Reduce Violence against Women and Children.” *IOL*, IOL | News That Connects South Africans, 26 May 2020, [www.iol.co.za/news/opinion/our-COVID-19-strategy-must-include-measures-to-reduce-violence-against-women-and-children-48510271](https://www.iol.co.za/news/opinion/our-COVID-19-strategy-must-include-measures-to-reduce-violence-against-women-and-children-48510271).

<sup>19</sup> UN Experts in South Africa.” *South Africa: Failure to Tackle Domestic Violence a Violation of Women’s Rights – UN Experts*, United Nations, May 2021, [southafrica.un.org/en/127070-south-africa-failure-tackle-domestic-violence-violation-womens-rights-un-experts](https://southafrica.un.org/en/127070-south-africa-failure-tackle-domestic-violence-violation-womens-rights-un-experts)

<sup>20</sup> “Minimum Standards on Shelters for Abused Women.” *South African Government*, [www.gov.za/documents/minimum-standards-shelters-abused-women](https://www.gov.za/documents/minimum-standards-shelters-abused-women).

rights are interdependent and when considering SGBV all factors need to be considered including the intersectionality of race, sexuality, economics and political will.”<sup>21</sup>

## Policies Prior to COVID-19

In 1996 the South African government established 6 Constitutional bodies to uphold the Constitution. As part of this effort the Commission for Gender Equality Act 39, of 1996 was established. The Commission has been tasked with the responsibility to monitor and evaluate the policies and practices of government, nonprofit, private and civil society agencies that promote gender equality and women’s rights.<sup>22</sup> On 15 March 2020 when the President declared a national state of disaster in South Africa limitations to rights under section 27 of the Disaster Management Act 57 of 2002 (DMA) were still protected and, subject to section 36 of the Constitution. This meant that anyone being violated or abused or anyone witnessing an individual’s rights being violated or being abused could seek help. Access to a legal response Justice hotline number was also provided as a resource.<sup>23</sup>

South Africa is a signatory to a number of international and regional legal instruments in terms of which it has undertaken to promote and protect a host of children’s rights and violence against women and children.

In 1995 having ratified the United Nation’s Convention on the Rights of the Child (RCR) South Africa has pledged to take, “all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”<sup>24</sup> In 2000 they signed the African Charter on the Rights and Welfare of the Child (ACRWC) with similar inclusions on child protection as the CRC. South Africa’s Bill of rights in the Constitution also upholds these rights.

The Children’s Act (No. 38 of 2005), along with the Amendment Act (No. 41 of 2007), provides for the full continuum of services, from prevention and early intervention to tertiary protection services of different forms of violence against children.<sup>25</sup> It also defines parental responsibilities and rights and makes provision for matters such as children’s courts, adoption, child abduction and surrogate motherhood. During COVID the Amendment Bill clarified the application of the Children’s Act to all children in South Africa, including non-citizens and further aligns with terminology in the CRC. South Africa also has the responsibility to enact the United Nation’s (UN) inclusion of a specific target Sustainable Development Goal (SDG) 16.2 to end all forms of violence against children in their 2030 SDG agenda.<sup>26</sup>

Post-apartheid South Africa is also signatory to all three major international laws and policies to prevent and intervene in violence against women and girls – Universal Declaration of Human Rights, Convention on the Elimination of all Forms of Discrimination Against Women, and the UN Declaration on the Elimination of Violence Against Women. This also means that they now must strive to meet the call to fulfil goal 5 of the UN’s SGD’s 2030 that, “aims to eliminate all forms of discrimination and violence

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<sup>21</sup> Mofokeng, Tlale - Special Rapporteur to the UN (South Africa) *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*. United Nations General Assembly, 7 Apr. 2021, [undocs.org/pdf/symbol=en/a/hrc/47/28](https://undocs.org/pdf/symbol/en/a/hrc/47/28).

<sup>22</sup> Commission for Gender Equality Review of Implementation 2020.” *Government's Emergency Action Response Plan (ERAP), on Gender-Based Violence and Feticide - Commission for Gender Equality Review of Implementation 2020*, 2020, doi:10.18356/90ff6c86-en.

<sup>23</sup> The Law during a State of Disaster and Human Rights Risks, Tess Peacock, Tim Hodgson, Yana Van Leeve, Ciara Quinn, Thandeka Kathi, The C19 Peoples Coalition, 2020

<sup>24</sup> DSD, DWCPD and UNICEF. 2012. *Violence Against Children in South Africa*. Pretoria: Department of Social Development/Department of Women, Children and People with Disabilities/UNICEF.

<sup>25</sup> DSD, DWCPD and UNICEF. 2012. *Violence Against Children in South Africa*. Pretoria: Department of Social Development/Department of Women, Children and People with Disabilities/UNICEF.

<sup>26</sup> UN. “Convention on the Rights of the Child.” *OHCHR*, United Nations, 2021, [www.ohchr.org/en/professionalinterest/pages/crc.aspx](https://www.ohchr.org/en/professionalinterest/pages/crc.aspx).

against women in the public and private spheres and to undertake reforms to give women equal rights to economic resources and access to ownership of property”.<sup>27</sup>

In 2016 the amendment to the Act was to be more inclusive in terms of child development, how children are protected and treated. The aim was to implement both practical solutions and uphold principles of the act in accordance with the constitution.<sup>28</sup> In 2019 the act was further amended to become the National Child Care and Protection Policy and according to the cabinet statement, the policy gives effect to the Children Act of 2005. Just like the 2016 amendment, the 2019 policy also promises to “strengthen the coordination of the childcare and protection system and ensures maximum use of current resources for improved services which promote positive development of children”.<sup>29</sup> further amendment to the act a policy that focuses in the first instance on the prevention of risks and the promotion of children’s development – and not one that focuses solely on the protection of those children already exposed to harm. Ever since the transition to democracy, South Africa has been committed to a developmental approach to childcare and protection, but there is a compelling need for it to be reinvigorated.<sup>30</sup>

This policy provides a national roadmap for the advancement of child and protection to advance the National development plan and support the UN’s Sustainable Development Goals 2030 (SDG2030) to discharge the governments international, and domestic child-rights responsibilities. Furthermore, to make it a priority to provide services and programmes in an integrated and coordinated manner.<sup>31</sup>

The CGE was established in terms of Section 187 of the Constitution of the Republic of South Africa of 1996 to promote respect for gender equality, and the protection, development, and attainment of gender equality. A recent Commission for Gender Equality (CGE) report outlined the achievements made, but more so the numerous impediments thus rallying for continuous support and resources from civil society, government and the private sector in order to respond effectively to the needs of gender-based violence.<sup>32</sup> Joan De Klerk, Director – Public Education & Information at the CGE said that a huge problem during COVID-19 has been the courts inability to deal with legal action against GBV offenders due to the lack of staffing and at times insufficiently trained staff.

Implemented in 2011, The Protection from Harassment Act 17 was established to help remedy continuing harassment by providing protection which would prohibit a person from harassing another person. If the harasser breaches a protection order he or she commits an offence which is punishable with a fine or a period of imprisonment.<sup>33</sup> However, “a simple procedure like a protection order during COVID-19 has

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<sup>27</sup> “Sustainable Development Goal 5: Gender Equality.” *UN Women*, [www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality](http://www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality).

<sup>28</sup> Govender, Sholain, and David Masango. “Government Explains New Children's Act.” *419419 Powered by Tawanna Donte*, 19 Dec. 2019, [www.zgycpad.com/edxmgj8851](http://www.zgycpad.com/edxmgj8851).

<sup>29</sup> *National Child Care and Protection Policy Published ...Sabinet Law*, 21 June 2021, [legal.sabinet.co.za/articles/national-child-care-and-protection-policy-published/](http://legal.sabinet.co.za/articles/national-child-care-and-protection-policy-published/).

<sup>30</sup> *NATIONAL CHILD CARE AND PROTECTION POLICY - Gov.* Department of Social Development Republic of South Africa, 2019, [www.gov.za/sites/default/files/gcis\\_document/202102/national-child-care-and-protection-policy.pdf](http://www.gov.za/sites/default/files/gcis_document/202102/national-child-care-and-protection-policy.pdf).

<sup>31</sup> *NATIONAL CHILD CARE AND PROTECTION POLICY - Working Together to Advance the Rights of All Children to Care and Protection.* Department of Social Development, 28 May 2021, [www.gov.za/sites/default/files/gcis\\_document/202102/national-child-care-and-protection-policy.pdf](http://www.gov.za/sites/default/files/gcis_document/202102/national-child-care-and-protection-policy.pdf).

<sup>32</sup> “Commission for Gender Equality Review of Implementation 2020.” *Government's Emergency Action Response Plan (ERAP), on Gender-Based Violence and Feticide - Commission for Gender Equality Review of Implementation 2020*, 2020, doi:10.18356/90ff6c86-en.

<sup>33</sup> Department of Justice and Constitutional Development, Protection from Harassment Act, 2011 (Act 17 of 2011). 2021, [www.justice.gov.za/forms/form\\_pha.html](http://www.justice.gov.za/forms/form_pha.html).

become very difficult compounding the problems for all victims and their safety”, she said. She also spoke about the failure of the formerly government established Gender-based Violence Council that could have potentially supported such efforts. Arguably aside from an absence of direction and leadership, the Council’s failure was also due to the lack of legitimacy of the structure and whether it was representative and inclusive.<sup>34</sup>

There has been much policy work by government on human rights-focused laws. However, when it comes to enforcing human rights laws that address VAW/C, court outcomes slur and ridicule the existing laws, rather than respecting and upholding them. Two legislative provisions intended to address gender-based violence and to protect women against all forms of violence in South Africa were: the *Domestic Violence Act No 116* of 1998 and *Criminal Law (Sexual Offense and Related Matters) Act No 32* of 2007. The third, the Criminal and Related Matters Bill aims to amend four acts, namely the Magistrates' Courts Act 32 of 1944, the Criminal Procedure Act 51 of 1977, the Criminal Law Amendment Act 85 of 1997 and the Superior Courts Act 7 of 2013. All 3 Acts are aimed to address the matter of perpetrators on the issue of bail, evidence, and regulate sentences.<sup>35</sup> As a result of the impact of COVID-19 on women and children becoming even more susceptible to violence and abuse, all three acts were further amended to address the needs for their safeguarding.

Summoning the spirit of the Women’s March of 1956, on 1 August 2018, thousands of women, gender non-conforming people and the LGBTIQ community across South Africa demonstrated against gender-based violence (GBV). The #Totalshutdown march was also to stand in solidarity with the women of an earlier protest, whose children were killed by the violence of men. The Total Shut Down (TSD) Intersectional Movement Against Gender-Based Violence and Femicide is the culmination of the work done by various social justice and women’s advocacy organizations such as Sisonke Gender Justice and Khanyisa Ikamva Projects and was supported by the Institute for Justice and Reconciliation (IJR) and the Commission for Gender Equality. Protestors marched to the Parliament where they presented a memorandum to the government which included a list of 24 demands.<sup>36</sup>

### **Policies during COVID-19**

The annual statistics from the South African Police Services (SAPS) on rape cases reveal an increase for 2017-2018 to 2018-2019, reporting an increase of 1 548 cases. However, it is essential to note that these figures are the total of all rape cases for the general population, and there is no demarcation about the exact number of cases for men, women, or children who reported rape during that specified period.<sup>37</sup> Since 2020 South Africa saw a 61.6% increase in child abuse (boys and girls) disclosures during COVID-19 in comparison to the previous year, with emotional abuse being the most frequent, followed by physical and sexual abuse of.<sup>38</sup>

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<sup>34</sup> Joan De Klerk, Director – Public Education & Information at Commission for Gender Equality Interview (Zaheda Mohamed-Salerni), New York/South Africa, 10 June, 2021

<sup>35</sup> “National Assembly Approves GBV Bills.” *SANews*, SA Government, 4 June 2021, [www.sanews.gov.za/south-africa/national-assembly-approves-gbv-bills](http://www.sanews.gov.za/south-africa/national-assembly-approves-gbv-bills).

<sup>36</sup> Simpson, Storm. “#TotalShutdown March in Cape Town.” *Medium*, The Tempestuous Times, 2 Jan. 2019, [medium.com/the-tempestuous-times/totalshutdown-in-cape-town-cf8dc8ab3b03](https://medium.com/the-tempestuous-times/totalshutdown-in-cape-town-cf8dc8ab3b03).

<sup>37</sup> SE, Mgozeli SE;Duma. ““They All Laughed and Asked Me If I Enjoyed Having Sex with Those Guys’: Exploring Men's Lived Experiences When Reporting Rape to Police in South Africa.” *PloS One*, U.S. National Library of Medicine, 21 Aug. 2020, [pubmed.ncbi.nlm.nih.gov/32822366/](https://pubmed.ncbi.nlm.nih.gov/32822366/).

<sup>38</sup> Childline Gauteng. *COVID-19 - Report on help line data lockdown period 27th March 2020 – 30th April 2020*. (2020). Available online at: <https://childlinegauteng.co.za/wp-content/uploads/2020/05/2.-Lockdown-Level-5-CLGP-Stats-Report-Final.pdf> (accessed November 2, 2020).

In 2019 there was growing need to address GBV and the rise in femicide, and TSD movement played a central role to the development of the newly instituted Gender-based Violence and Femicide National Strategic Plan (GBVF-NSP), created to respond to the crisis.<sup>39</sup>

COVID-19 intensified the need for policy to address the urgent need and after a lengthy period of arduous lobbying, the interim Steering Committee on Gender-Based Violence and Femicide in consultation with civil society organizations and academics jointly developed guidelines and protocols for GBV management under the GBVF-NSP. The plan is anchored around 5 key interventions:

- I. Urgently respond to victims and survivors of GBV.
- II. Broadening access to justice for survivors.
- III. Changing social norms and behaviour through high-level awareness raising and prevention campaigns.
- IV. Strengthening existing architecture and promoting accountability.
- V. The creation of more economic opportunities for women who are vulnerable to abuse because of poverty.<sup>40</sup>

Objectives are to include VAC and the lack of accessibility for many women and children to obtain help through access to phones, airtime, public transportation to get them to a police station, shelters and medical help.

COVID-19's impact on South Africa's VAW/C in all forms has illuminated a critical need to redress policies. In June 2021, three new bills have been passed by government to adequately prosecute, criminalize and hold accountable any individual or institution including government to protect women and girls against all forms of violence. Two Acts were framed to protect women against all forms of violence. The Domestic Violence Act No 116 of 1998 and the Criminal Law (Sexual Offense and Related Matters) Act No 32 of 2007. As a response to the increase in GBV during COVID-19 the Domestic Violence Amendment Bill was extended to include in its definition of domestic violence victims of assault in those engaged to be married, dating, in customary relationships, and those in actual or perceived romantic, intimate, or sexual relationships of any duration. This extended definition would also include older citizens who have been abused by family members. You would also no longer have to physically go through the court system to apply for a protection order but can also get a protection order online which would be added to a central digital depository that houses other orders and cases made against the same person.

Ms. De Klerk's response to the amendment is that South Africa lacks when it comes to data on gender-based violence and if there is data it is usually inaccurate - case files also often go missing. While the central digital depository should be able to help with that, she added that there will be technical and other management issues due to a lack of training and accountability. The issue of lack of access to technology is a challenge.<sup>41</sup>

The effectiveness of the online protection order is questionable due to its reliance on access to computers, smartphones, and an internet connection which is not available to everyone particularly in informal settlements, rural areas, and many townships. The high cost of data and loss of income also adds to the inability to access technology. This is compounded with South Africa's unpredictable electricity outages. Under lockdown orders, unable to leave their homes, victims have to correspond for help while in

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<sup>39</sup> *National Strategic Plan on Gender-based Violence & Femicide*. National Strategic plan on gender-based violence & femicide, 2020, [justice.gov.za/vg/gbv/nsp-gbvfinal-doc-04-05.pdf](https://justice.gov.za/vg/gbv/nsp-gbvfinal-doc-04-05.pdf).

<sup>40</sup> *National Strategic Plan on Gender-based Violence & Femicide*. National Strategic plan on gender-based violence & femicide, 2020, [justice.gov.za/vg/gbv/nsp-gbvfinal-doc-04-05.pdf](https://justice.gov.za/vg/gbv/nsp-gbvfinal-doc-04-05.pdf)

<sup>41</sup> Joan De Klerk, Director – Public Education & Information at Commission for Gender Equality Interview (Zaheda Mohamed-Saleni), New York/South Africa, 10 June, 2021.

the presence of the abuser, putting them at further risk of being harmed. Accountability on behalf of witnesses is a large motivator in the changes to the Domestic Violence Act and thus, helps to mitigate a victim's inability to report the abuse and the risk of further abuse. If a witness of domestic violence remains silent, they could be fined or receive a prison sentence. Under this bill, the South African Police Service (SAPS) would also be held accountable if they do not follow the right procedures after someone has reported a case of domestic violence to them.<sup>42</sup>

The second, the *Criminal Law (Sexual Offense and Related Matters) Act No 32* of 2007, considered crucial to changing South African sexual laws (Moore, 2005) at the time, has most recently been amended to include mandatory minimal sentence time for specific types of rape under the Criminal Law Amendment Act 1997.<sup>43</sup> The *Criminal Law (Sexual Offences and Related Matters) Act COVID-19-related amendments* recognizes sexual intimidation as an official offence, which it had not done before. This means that if you are threatened by someone's behavior towards you, verbally or otherwise, you can report it and seek legal action. The bill also increases the reporting duty of those who suspect that a child is the victim of a sexual offence. It's not clear yet who this duty is extended to, but it should be clarified as the bill is finalized. Finally, the bill would extend the national register for sex offenders to not only include perpetrators who acted against children and people with disabilities, but all known sex offenders. The Children's Institute believes that screening against the National Register for Sex Offenders (NRSO) is not the most effective way of providing such protection. Rather employers should be required to use the SAPS Criminal Record system (collected by the Criminal Record Centre of the South African Police Service) in place of a register, to block the employment of persons who have been convicted of relevant offences, including sexual offences. This has many advantages over the NRSO.<sup>44</sup> It would also make sex offenders' names available to the public for further accountability, which arguably could also prove risky for reprisals in a country known for vigilante attacks.

The third of the amended Acts, the Criminal and Related Matters Amendment Bill comes in response to a public outcry against accused offenders being easily granted bail, and perpetrators only having to serve minimum sentences for very serious crimes. This bill will in particular strengthen the legislation regulating the National Register for Sex Offenders (NRSO) and expand the scope of the NRSO to include the particulars of all sex offenders and not only sex offenders against children and persons who are mentally disabled. The names of offenders will also remain on the list for an extended period. The Children's Institute advises that for employment purposes the NRSO is not the most effective way for screening sex offenders. Employers should use the SAPS Criminal Record system (collected by the Criminal Record Centre of the South African Police Service) instead, to block the employment of persons who have been convicted of VAW/C crimes.<sup>45</sup> The bill also emphasizes that perpetrators accused of GBV would only be granted bail under exceptional circumstances. If these circumstances were accepted, the court would then have to consider several things before granting them bail, including whether the survivor would feel safe with the decision. The duty on the prosecutor is to provide whether the accused already has a protection order against

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<sup>42</sup> Global Citizen, Understanding South Africa's New Gender-Based Violence Laws, Mlaba, Khanyi, Sept, 23, 2020, <https://www.globalcitizen.org/en/content/south-africa-new-laws-gender-violence-what-to-know/>

<sup>43</sup> Bendall, Charlotte. "The Domestic Violence Epidemic in South Africa: Legal and Practical Remedies." *Women's Studies* 39 (2010): 100-18.

<sup>44</sup> *Submission on the Criminal Law (Sexual Offences and ...* Children's Institute UCT, Oct. 2020, [www.bme.uct.ac.za/sites/default/files/image\\_tool/images/242/parliamentary/compulsory-HIV-testing.pdf](http://www.bme.uct.ac.za/sites/default/files/image_tool/images/242/parliamentary/compulsory-HIV-testing.pdf).

<sup>45</sup> *Submission from the Children's Institute, UCT on the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill [B16 – 2020], Domestic Violence Amendment Bill [B20 – 2020] and Criminal Matters Amendment Bill [B17 – 2020]*, Oct. 2020, [pmg.org.za/files/201020Childrens\\_Institute\\_submission\\_2020\\_SOA\\_and\\_DVA.pdf](http://pmg.org.za/files/201020Childrens_Institute_submission_2020_SOA_and_DVA.pdf).

them, which was not previously the case. Regarding parole, survivors or relatives of a deceased victim would have the opportunity to speak in front of the parole board before any decision can be made.<sup>46</sup>

### **Budget spending for women and children during COVID-19**

"If you want to see which way a country is headed, look at the country's budget and how it allocates resources for women and children," said South African parliamentarian Ms. Pregs Govender.<sup>47</sup>

CEDAW's investigation into the high levels of GBV in South Africa coincided with the presentation of the Emergency Response Action Plan to address gender-based violence and femicide presented to Parliament on 18th of September 2019. The plan was intended to be constituted by April 2020, with no awareness of the looming global COVID-19 pandemic. In response, government departments rallied around the plan and at the end of 2019 an amount of R1,6 billion was sourced through budget reprioritization.<sup>48</sup> However, despite the President's commitment to continue implementing the plan during COVID-19, the reality on the ground was that the implementation fell short and did not address emergency GBV needs for women and children during COVID-19.<sup>49</sup>

As early as April 2020 the South African government responded with a bold response to the COVID-19 pandemic by announcing a \$26 billion fiscal plan. Part of the plan included transparency - all public money spent on health care and emergency procurement information should be published and made accessible to the public, as a means for the government to garner the trust of civil society.<sup>50</sup> This did not deter corruption and with over R90 million of Covid-19 funds looted from the Department of Health by the Minister entrusted to lead the country's battle against COVID-19, Zweli Mkhize was suspended for corruption.

In February 2021, the Department of Women, Youth and Persons with Disabilities was allocated R15 million to establish and operationalize a national council for gender-based violence and femicide. The council will provide strategic leadership and guidance on planned interventions. The National Youth Development Agency will receive R1.4 billion for its operations and youth employment support programmes.<sup>51</sup> The Treasury's 2021 budget review stated that R603.3 million is allocated for programmes to mitigate the social effects of HIV, gender-based violence and substance abuse.<sup>52</sup>

### **Shelters and temporary housing pre-COVID-19**

The Minimum Standards on Shelters for Abused Women as early as 2001 informed by the implementation of the Domestic Violence Act had placed demands on the DSD to manage and facilitate the provision of shelters for abused women, as well as ensuring the availability and accessibility of counselling services to

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<sup>46</sup> Global Citizen, Understanding South Africa's New Gender-Based Violence Laws, Mlaba, Khanyi, Sept, 23, 2020, <https://www.globalcitizen.org/en/content/south-africa-new-laws-gender-violence-what-to-know/>

<sup>47</sup> "Minimum Standards on Shelters for Abused Women." *South African Government*, [www.gov.za/documents/minimum-standards-shelters-abused-women](http://www.gov.za/documents/minimum-standards-shelters-abused-women).

<sup>48</sup> *NATIONAL STRATEGIC PLAN ON GENDER-BASED VIOLENCE & FEMICIDE*. NSP-GBVF Republic of South Africa, 2020, [justice.gov.za/vg/gbv/NSP-GBVF-FINAL-DOC-04-05.pdf](http://justice.gov.za/vg/gbv/NSP-GBVF-FINAL-DOC-04-05.pdf).

<sup>49</sup> *National Strategic Plan on Gender-based Violence & Femicide*. National Strategic plan on gender-based violence & femicide, 2020, [justice.gov.za/vg/gbv/nsp-gbv-final-doc-04-05.pdf](http://justice.gov.za/vg/gbv/nsp-gbv-final-doc-04-05.pdf)

<sup>50</sup> "Minimum Standards on Shelters for Abused Women." *South African Government*, [www.gov.za/documents/minimum-standards-shelters-abused-women](http://www.gov.za/documents/minimum-standards-shelters-abused-women).

<sup>51</sup> "Minimum Standards on Shelters for Abused Women." *South African Government*, [www.gov.za/documents/minimum-standards-shelters-abused-women](http://www.gov.za/documents/minimum-standards-shelters-abused-women).

<sup>52</sup> "Social Grants to Increase by below Inflation." *SANews*, SA Government, 24 Feb. 2021, [www.sanews.gov.za/south-africa/social-grants-increase-below-inflation](http://www.sanews.gov.za/south-africa/social-grants-increase-below-inflation).

women and children.<sup>53</sup> However, pre-COVID-19 there were still gaping holes in the supply and demand of emergency resources to provide adequate services for women and children victims of violence and abuse.

A report in June 2019 released by the CGE highlights governments funding failures for shelters that protect survivors of GBV. Khanyisa Victim Empowerment Centre in the Eastern Cape is one of many safety houses trying to provide protection for women and children. Their annual funding was decreased from R350,000 in 2016/2017 to R300,000 the following financial year.<sup>54</sup> Due to insufficient funding many shelters have poor security, a lack of transitional housing for survivors ready to leave the shelter and inadequate resources for children including the inability to enable children to continue their education by getting them to schools. This is a serious indictment, especially since South Africa has one of the highest rates of GBV in the world and escalating numbers for child and adolescent abuse.

The National Shelter Movement of South Africa (NSMSA) is an umbrella body representing 98 shelters for women and children affected by gender-based violence in South Africa.<sup>55</sup> Their findings from a 3-year research project just prior to Covid-19, exposes erratic funding policies that lead to inconsistent and unequal shelter funding across the provinces. Shelters in one province received as little as R9 per person per day, to meet the needs of women residing at shelters, while in another province shelters received up to R71.<sup>56</sup>

This has meant that shelters like Leratong Place of Safety for Women and Children in Gauteng, and the Kimberley Shelter in the Northern Cape were already at risk of shutting down even prior to the extended demands and needs inflicted because of COVID-19.

ChildLine South Africa, a non-profit organization that provides full-service counselling and 24-hour toll-free telephone help for children and parents and Mercy House that provides shelter and basic comforts to survivors of domestic violence, and victims of human trafficking and their children, have both established trust and, reliability amongst women and children seeking help.

### **Shelters and temporary housing during COVID-19**

Childline's 24-hour call center continued to provide its counselling services, Nokulunga Mnisi a crisis counsellor at ChildLine said, "I want to be there for that one child who thinks no one will believe her," she says. During COVID-19 they have supported parents who have expressed concerns about their children's education and provided extended support to grandparents play an important role, by stepping in when children's parents are not available or able to cope and, who in many cases are primary caregivers.<sup>57</sup>

COVID-19 increased fear and risk of women and child trafficking and ChildLine and Mercy House, while aware of the increased needs were not able to self-sustain without support from external aid. Both

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<sup>53</sup> "Minimum Standards on Shelters for Abused Women." *South African Government*, [www.gov.za/documents/minimum-standards-shelters-abused-women](http://www.gov.za/documents/minimum-standards-shelters-abused-women).

<sup>54</sup> Shoba, Sandisiwe. "STATE OF THE NATION: Scant Shelter for Survivors of Violence and Rape in South Africa." *Daily Maverick*, 25 June 2019, [www.dailymaverick.co.za/article/2019-06-25-scant-shelter-for-survivors-of-violence-and-rape-in-south-africa/](http://www.dailymaverick.co.za/article/2019-06-25-scant-shelter-for-survivors-of-violence-and-rape-in-south-africa/).

<sup>55</sup> GBV victims at risk & shelters, COVID-19 lockdown, Lopes. C and Adonis. N, 26 March 2020, <http://www.gwi-boell.de/en/2020/03/26/press-release-gbv-victims-risk-shelters-COVID-19-lockdown>

<sup>56</sup> *Letter to President Urging Immediate Intervention on ...NSMSA*, 21 Aug. 2020,

[www.nsmsa.org.za/2020/08/21/letter-to-president-urging-immediate-intervention-on-funding-of-womens-shelters/](http://www.nsmsa.org.za/2020/08/21/letter-to-president-urging-immediate-intervention-on-funding-of-womens-shelters/).

<sup>57</sup> Samie-Jacobs, Nadia. "Helping Vulnerable Children Navigate the COVID-19 Pandemic." *UNICEF Eastern and Southern Africa*, 30 Apr. 2020, [www.unicef.org/esa/stories/helping-vulnerable-children-navigate-COVID-19-pandemic](http://www.unicef.org/esa/stories/helping-vulnerable-children-navigate-COVID-19-pandemic).

organizations received support and personal protective equipment (PPE) from The United Nations Office on Drugs and Crime (UNODC) in South Africa to support their efforts.<sup>58</sup>

Since shelters are considered an essential service, these facilities are to remain fully operational during the lockdown. The President gave directives to the Minister of Police to ensure that Family Violence, Child Protection and Sexual Offences Units are reinforced at police stations during the lockdown and beyond.<sup>59</sup>

This did not translate to the urgent support required from the government to ensure that shelters could meet their needs to adequately help victims.

With the effects of COVID-19 on violence against women and children, it has taken a toll on shelters to provide adequate services. In August of 2020 in a letter to president, the National Shelter Movement (NSM) urged him to take immediate action on funding of women's shelters. The letter criticized the DSD for poor service delivery and a lack of understanding of the issues and needs as well as poor coordination. Recently, R100-million was allocated from the Criminal Assets Recovery (CARA) Funds Account, as a way to provide financial support to shelters and other organizations providing services to victims of gender-based violence, femicide and other crime. Many of the shelters that have applied have still not received this funding. For example, in the WC only 1 out of 14 have been funded.<sup>60</sup>

According to the NSM one of its main concerns is the potential for increased violence against women and children, who may be forced to endure isolation with their abuser(s).<sup>61</sup> Tina Thiar, founding member for the 1000 Women Trust said that "Domestic violence shelters in South Africa are reaching capacity or are unable to take new victims due to lockdown and social distancing measures. In other cases, they are being re-purposed to serve as health centers,"<sup>62</sup>

As shelter services during COVID-19 increased, support services shelters like the Thuthuzela Care Centers and NGOs that deliver psycho-social and practical support services to victims, were unable to sustain adequate help to meet the needs of the growing demand. Claudia Lopes, a project manager at the Heinrich Böll Foundation specializing in women's rights activism spoke of how critical it was for government, at this time, to release funds immediately as it is impossible for shelters to survive without funding for even three months.<sup>63</sup>

As a means to ensure that women and children were not left unassisted, accessible direct mobile numbers of provincial representatives of the National Shelter Movement the Western Cape, KwaZulu-Natal, Free State, Eastern Cape, North West, Northern Cape, Rose Clair Adriaanse or and Gauteng were made available. Bernadine Bachar, Chair of the Western Cape Women's Shelter Movement and Director of the largest shelter in the province, Saartjie Baartman Centre for Women and Children (SBC), says that shelters

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<sup>58</sup> "United Nations Agency Donates COVID-19 PPE to Shelter Houses in South Africa in South Africa." *United Nations*, United Nations, southafrica.un.org/en/106916-united-nations-agency-donates-COVID-19-ppe-shelter-houses-south-africa.

<sup>59</sup> The Presidency, Republic of South Africa, From the Desk of the President Statement, President Cyril Ramaphosa, 13 April, 2020, <https://mailchi.mp/presidency.gov.za/president-desk-mon13apr20>

<sup>60</sup> *Letter to President Urging Immediate Intervention on ...* NSMSA, 21 Aug. 2020, [www.nsmsa.org.za/2020/08/21/letter-to-president-urging-immediate-intervention-on-funding-of-womens-shelters/](http://www.nsmsa.org.za/2020/08/21/letter-to-president-urging-immediate-intervention-on-funding-of-womens-shelters/).

<sup>61</sup> GBV victims at risk & shelters, COVID-19 lockdown, Lopes. C and Adonis. N, 26 March 2020, <http://www.gwi-boell.de/en/2020/03/26/press-release-gbv-victims-risk-shelters-COVID-19-lockdown>

<sup>62</sup> GBV victims at risk & shelters, COVID-19 lockdown, Lopes. C and Adonis. N, 26 March 2020, <http://www.gwi-boell.de/en/2020/03/26/press-release-gbv-victims-risk-shelters-COVID-19-lockdown>

<sup>63</sup> Ntseku, Mthuthuzeli. "Shelters Taking Strain as Domestic Violence Rises during COVID-19 Lockdown." *IOL*, IOL | News That Connects South Africans, 14 Apr. 2020, [www.iol.co.za/news/south-africa/western-cape/shelters-taking-strain-as-domestic-violence-rises-during-COVID-19-lockdown-46683482](http://www.iol.co.za/news/south-africa/western-cape/shelters-taking-strain-as-domestic-violence-rises-during-COVID-19-lockdown-46683482).

have put measures in place to ensure shelter residents' safety as far as possible. The Gender-Based Violence National Command Centre also remains operational.

There are a number of contact centers available to support women who experience any domestic abuse issues during the #coronavirus lockdown. The LifeLine SA Stop Gender Violence National Helpline is available on a tollfree number - 0800 150 150. Women and children in danger can also contact the National DSD's Gender-Based Violence Command Centre (GBVCC). The Call Centre operates 24hr/7days-a-week and is operated by qualified social workers who are responsible for taking calls and making call referrals.<sup>64</sup> Should you be unable to make a call, dial \*120\*7867# to contact the center via a USSD, "Please Call Me" service. The center can also be reached via a Skype line, by adding 'Helpme GBV' to your Skype contacts. This is particularly useful for members of the deaf community. Social workers in the Command Centre can also be reached by sending an SMS with the word 'Help' to 31531. The Centre will be particularly useful during isolation, since they are able to refer calls directly to the South African Police Services (10111) and field Social Workers, who will respond to victims of GBV. For more details, go to <http://gbv.org.za/about-us/>.<sup>65</sup>

Despite all these efforts, in their investigation, CEDAW also noted the absence of State-run shelters for women and their children. South Africa "cannot absolve itself from its obligation to ensure protection and assistance to victims of domestic violence by delegating the provision of such services to NGO-run shelters without adequately funding them," CEDAW said.<sup>66</sup> Dr. Mofokeng states that CEDAW's findings reflect that funding is a huge problem, with funds either being under allocated or due to corruption, gone missing. Mofokeng adds that shelters are only temporary places of safety and there is a great need for rehabilitation and having the resources to help survivors with health and mental wellbeing after surviving abuse.<sup>67</sup>

CGE's Ms. De Klerk confirms that their research on shelters also found gross discrepancies in funding and the disproportionate allocation of salaries was a huge problem. Due to COVID-19 organizations that were government funded had to return some of their allocations to Treasury, in part to meet the needs for GVB emergency management including shelters. The CGE returned R10 million of their funding – none of which she says is adequately reflected in the GBV emergency management during the lockdown and currently.<sup>68</sup>

While government, tech and big business companies are responding to COVID-19 by putting forward innovative uses of technology to communicate how to reduce infection and create awareness of the dangers of COVID-19 there has been a void in the outreach concerning VAW/C and how to help victims seek safety and resources.

Victim Empowerment Centers have been touted as reporting mechanisms that are set up in police stations so victims can report abuses however, many women are reporting being further violated by the police themselves.<sup>69</sup>

## **Sexual and Reproductive Health Services During Covid-19**

<sup>64</sup> GBV victims at risk & shelters, COVID-19 lockdown, Lopes. C and Adonis. N, 26 March 2020, <http://www.gwi-boell.de/en/2020/03/26/press-release-gbv-victims-risk-shelters-COVID-19-lockdown>

<sup>65</sup> GBV victims at risk & shelters, COVID-19 lockdown, Lopes. C and Adonis. N, 26 March 2020, <http://www.gwi-boell.de/en/2020/03/26/press-release-gbv-victims-risk-shelters-COVID-19-lockdown>

<sup>66</sup> UN Experts in South Africa." *South Africa: Failure to Tackle Domestic Violence a Violation of Women's Rights – UN Experts*, United Nations, May 2021, [southafrica.un.org/en/127070-south-africa-failure-tackle-domestic-violence-violation-womens-rights-un-experts](https://southafrica.un.org/en/127070-south-africa-failure-tackle-domestic-violence-violation-womens-rights-un-experts)

<sup>67</sup> Mofokeng Tlale, Special Rapporteur to the UN on the Right to Health (SA), Interview, New York/South Africa, 14 June, 2021

<sup>68</sup> Joan De Klerk, Director – Public Education & Information at Commission for Gender Equality Interview (Zaheda Mohamed-Salerni), New York/South Africa, 10 June, 2021

<sup>69</sup> Joan De Klerk, Director – Public Education & Information at Commission for Gender Equality Interview (Zaheda Mohamed-Salerni), New York/South Africa, 10 June, 2021

The impact of the pandemic means that, globally, sexual and reproductive health (SRH) services and support — ranging from condoms, contraceptives, HIV testing and treatment, and uninterrupted hormone treatment for transgender persons -are limited, if available at all.<sup>70</sup>

For the thousands of abused and violated women and children during the COVID-19 lockdown, their circumstance became even more dire over the critical concerns regarding access to SRH services for women, adolescents, and sexual and gender minorities, as human resources are diverted to the COVID-19 response.

In South Africa, many SRH care clinics have closed or reduced their hours, while others have had to redirect human resources and clinic space to the COVID-19 response. In addition to possible supply-side issues, lockdown might also restrict women’s ability to access health care and SRH services. South Africa’s repeat collection prescription strategies allow individuals to collect antiretroviral medicine refills from alternative pick-up sights to reduce hospital visits. However, fear of exposure to the coronavirus might discourage women from attending clinic appointments and seeking other SRH services. Reduced transport options during lockdown also disproportionately impact women, for whom walking carries a greater risk of assault.<sup>71</sup>

Although Médecins Sans frontières (MSF)-supported Kgomotso Care Centres remain open, they have witnessed a sharp decrease in new sexual violence cases due to lockdown-related barriers, while at the same time the number of GBV cases reported to police nationally was markedly higher than for the same period last year. Their team in Rustenburg met with the Department of Health about the de-prioritization of Choice of Termination of Pregnancy (CToP) services in several facilities, and CToP services have since resumed. While the government is due to announce a range of services to be provided to survivors of GBV during the lockdown, our team in Rustenburg is seeing a lower number of sexual violence clients in the Kgomotso Care Centres dedicated SGBV clinics), indicative of the serious barriers to access posed by the lockdown.<sup>72</sup>

In her General Assembly address Dr Mofokeng talks of how people of African descent are socially positioned to experience multiple forms of systemic oppression. She goes on to articulate the experience of black women and the lack of preventable health resources. Closure and cuts to SRH systems during COVID-19 has intensified the need to address these matters as intrinsically engrained remnants of colonialism that still fester affecting the most vulnerable, women and children. She maintains that the right to health should be a priority for States and this includes the recovery and healing of GBV victims.<sup>73</sup>

## **Policy Recommendations**

The insights that have merged from this research highlight the need to address the following:

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<sup>70</sup>Ahmed, Zara, et al. “The COVID-19 Outbreak: Potential Fallout for Sexual and Reproductive Health and Rights.” *Guttmacher Institute*, 9 June 2020, [www.guttmacher.org/article/2020/03/COVID-19-outbreak-potential-fallout-sexual-and-reproductive-health-and-rights](http://www.guttmacher.org/article/2020/03/COVID-19-outbreak-potential-fallout-sexual-and-reproductive-health-and-rights)

<sup>71</sup> Teagle, Andrea, and Ingrid Lynch. “The COVID-19 Impact on Sexual- and Reproductive-Health Rights and Gender-Based Violence, 29 April 2020 .” *HSRC*, HSRC, 29 Apr. 2020, [www.hsrc.ac.za/en/news/general/SRHR-COVID-19](http://www.hsrc.ac.za/en/news/general/SRHR-COVID-19).

<sup>72</sup> Médecins Sans Frontiers Southern Africa, South Africa: Sexual and Gender-Based Violence, a Concern during COVID-19 Lockdown, 2020, 7 April, [www.msf.org/za/news-and-resources/latest-news/south-africa-sexual-and-gender-based-violence-concern-during-covid](http://www.msf.org/za/news-and-resources/latest-news/south-africa-sexual-and-gender-based-violence-concern-during-covid).

<sup>73</sup> Mofokeng, Tlale - Special Rapporteur to the UN (South Africa) *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*. United Nations General Assembly , 7 Apr. 2021, [undocs.org/pdf?symbol=en/a/hrc/47/28](https://undocs.org/pdf?symbol=en/a/hrc/47/28).

UN Women identify 3 policy recommendations for South Africa:

1. Including women and women's organizations at the center of pandemic response (COVID-19)
  2. There must be a transformation of gendered economic discriminations and in the inequities of unpaid care work. Governments and global health institutions must consider the gendered nature of these, through the COVID-19 outbreak and beyond. The minister has recommended that in response to the pandemic, the South African government implement gender-responsive budgeting, stating “If we don't really pay attention to gender-responsive budgeting, we will not be able to pay attention and focus on women who bear the face of poverty” (Kassen, 2020, para. 8).
  3. This so-called shadow pandemic of gender-based violence needs to be treated with the same determination and severity as seen in the practices used against the contagion COVID-19.
- Policies to be specific regarding what defines intimate partner violence and legislation for criminalization
  - To consider the linkages between VAW and VAC - how enabling environments amplify the impact of violence
  - Policies on Early Childhood Development must have full integrated and response mechanisms that are coordinated across all departments to address violence against women and children – including community level approaches.<sup>74</sup>
  - For legislation to establish clear rules for sentencing perpetrators of crimes against women and children and all forms of gender-based violence
  - To establish government funded and run shelters that are accountable for providing safeguarding and resources for women and children
  - To establish SRH policy in emergency - abortion, medicine, counselling, and alternate health facilities
  - To establish policy during emergencies around the use of alcohol that exacerbates risk of violence and burdens health care facilities
  - Emergency services funding for VAW/C should be readily available
  - To formulate policy that includes African customary law and cultural practices. - By implication, there is an obligation on the State as well as individuals and children to engage in dialogue and review, or reflect on, customary practices to assess their compatibility with, and capacity to promote rights protected through state policies and the various international instruments. (Mwanbene & Sloth-Nielsen, 2010: page 5).<sup>75</sup> Save the Children Sweden commissioned this follow-up study to explore these observations in further detail; to explore to what extent in South Africa, African customary law and practice promotes and/or inhibits the protection of children; how the positive impacts can be harnessed for the greater protection of more children; how the negative impacts can be mitigated; and finally how and who should be at the helm of any necessary developments of African customary law.<sup>76</sup>

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<sup>74</sup> Mathews, S, Jamieson, L and Makola, L Our Covid-19 Strategy must include measures to reduce violence against women and children, UCT, May 26, 2020

<sup>75</sup> Mbambo, Patricia Martin and Buyi. “An Exploratory Study on the Interplay between African Customary Law and Practices and Children's Protection Rights in South Africa.” *An Exploratory Study on the Interplay between African Customary Law and Practices and Children's Protection Rights in South Africa* | Better Care Network, 1 Nov. 2011, [bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/child-abuse-and-neglect/an-exploratory-study-on-the-interplay-between-african-customary-law-and-practices-and-childrens](https://bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/child-abuse-and-neglect/an-exploratory-study-on-the-interplay-between-african-customary-law-and-practices-and-childrens).

<sup>76</sup> Mbambo, Patricia Martin and Buyi. “An Exploratory Study on the Interplay between African Customary Law and Practices and Children's Protection Rights in South Africa.” *An Exploratory Study on the Interplay between African Customary Law and Practices and Children's Protection Rights in South Africa* | Better Care Network, 1 Nov. 2011, [bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/child-abuse-and-neglect/an-exploratory-study-on-the-interplay-between-african-customary-law-and-practices-and-childrens](https://bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/child-abuse-and-neglect/an-exploratory-study-on-the-interplay-between-african-customary-law-and-practices-and-childrens).

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