



Commission for Gender Equality
A society free from gender oppression and inequality

CEDAW REPORT

Prepared
By
Commission for Gender Equality



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CGE Mandate

- ❑ The Commission for Gender Equality (CGE) is an independent statutory body established with other Chapter 9 institutions under Section 181 of the Constitution of South Africa.
- ❑ The mandate of the CGE is provided for in Section 187 of the Constitution and in the CGE Act of 1996 (as amended)
- ❑ CGE is mandated to promote respect for, protect, develop and attain gender equality, and to make recommendations on any legislation affecting the status of women
- ❑ Section 11 (h) of the CGE Act mandates the Commission to monitor and evaluate the implementation of international and regional conventions acceded to by South Africa, intended to impact on gender equality.



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BACKGROUND

- ❑ South African government has ratified a number of international and regional instruments promoting gender equality.

- ❑ One of these instruments is the 1979 Convention on the Elimination of all forms of Discrimination Against Women (ratified 1995), which is the subject of this engagement today

- ❑ The aforementioned instruments were aimed at fast-tracking gender equality globally as the subject of gender inequalities is comprehensive and multi-dimensional.

- ❑ These ratified instruments have been domesticated and enshrined into laws, policies and programmes with the aim to protect and promote gender equality in the country in compliance with the international standards..



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BACKGROUND (Cont.)

- ❑ In line with our legislative mandate, we compiled a report assessing the country's progress in the implementation of the CEDAW Committee's concluding observations from the last country reporting during the 967th and 968th Session in 2011.
- ❑ South Africa has compiled the following reports:
 - ❑ The initial report – 1998
 - ❑ Second, third, and fourth combined – 2011
 - ❑ The fifth report was due Feb – 2014
- ❑ CGE published CEDAW Monitoring Report (baseline report) in 2015
- ❑ CGE notes the recent country report deposited with the CEDAW Committee by government (it was due for presentation in October 2020 but postponed due to COVID-19 pandemic).



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CEDAW BACKGROUND

- ❑ CEDAW was crafted in line with the International Bill of Human Rights.
- ❑ It Was geared towards strengthening and extending the emphasis on women's human rights.
- ❑ The international community ensured establishment of structures such as CSW, which led to the drafting of the CEDAW Declaration, which was later augmented to a Convention to make it binding to the member states.
- ❑ CEDAW was adopted in 1979 by the UN General Assembly.
- ❑ South Africa ratified the CEDAW in 1995 and submitted its initial report in 1998.
- ❑ State parties to the Convention are obliged to report to the CEDAW Committee Team of Experts periodically every 4 to 5 years



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CEDAW BACKGROUND CONT...

- ❑ The reporting process offers an occasion for the state party (South Africa in this case), to:
 - (a) Conduct a comprehensive review of measures taken to harmonise national laws and policies with the provisions of the CEDAW;
 - (b) Monitor progress made in promoting the enjoyment of the rights set forth in the CEDAW;
 - (c) Identify problems and shortcomings in its approach to the implementation of the Convention, and
 - (d) Plan and develop appropriate policies to achieve these goals.



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METHODOLOGY

- ❑ This study utilised published sources and other available information mostly from official government sources.
- ❑ The team of researchers relied on the information from various sources, including departmental websites, annual reports and other official documents, to establish the progress that different departments have made in implementing the recommendations as articulated by the concluding observations from the last periodic reporting.
- ❑ The information was verified through direct contacts (via telephone calls and emails) with officials from the relevant government departments and other related organisations.



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OBJECTIVES

- ❑ To assess the progress of the country's compliance in implementing the provisions of the CEDAW;
- ❑ To assess the country's progress in the implementation of the Concluding Observations emanating from the previous periodic reporting; and,
- ❑ To assess gaps and factors hindering implementation of the Convention.



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LIMITATIONS

- ❑ Much of the necessary information on government and departmental activities was not freely and easily available

- ❑ Official government information relating to gender issues was not always and readily available in a sex- disaggregated format in line with the reporting indicators

- ❑ Most of the departments plans lacked specific data necessary for compiling this report i.e. budgets were not gender sensitive, no clear gender –related performance indicators, etc.

- ❑ Difficulties obtaining relevant data on time from many government departments/ institutions



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FINDINGS ON THE ARTICLES

ARTICLE 1 – 6

1. Definition of Discrimination against Women

For the purpose of the Convention on the Elimination of All forms of Discrimination Against Women, “Discrimination against Women” means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women.

- ❑ Government reported on some of the Policy and Legislative Frameworks during the last Country periodic reporting (i.e. 2009).

2. Involvement of Parliament in the implementation of the Convention and the Concluding Observations:

Some of the work of the National Assembly relating to the implementation of the CEDAW Committee Concluding Observations and Recommendations was reflected through the work of various internal Parliamentary Committees, and other relevant structures.



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FINDINGS ON THE ARTICLES

- ❑ Parliament's Portfolio Committee on Women, Youth and Persons with Disabilities held two sessions in 2015 and 2016 to deliberate specifically on the country's 5th periodic report (2009 – 2014) on compliance with the CEDAW Committee's 2011 Concluding Observations and Recommendations.
- ❑ The Portfolio Committee was focusing on ways in which the issues raised in the report could be addressed.
- ❑ The Portfolio Committee has oversight functions and one of the key interests has been Violence against women.
- ❑ A series of events in partnership with the civil society organisations have led to the adoption of the National Strategic Plan
- ❑ Home Affairs Portfolio Committee is responsible for oversight of the Department of Home Affairs, mostly for ensuring implementation of Article 9 of CEDAW.
- ❑ Health Portfolio Committee responsible for implementation of Article 12, Recommendation 35, HIV/AIDS, and Recommendations 37 and 38, Access to Health for Rural Women and Health Education.



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Article 2: Access to Justice

- ❑ In providing access to justice, South Africa aligns itself with the international agenda through compliance with international frameworks, such as Sustainable Development Goals 16 and 17, which advocate for partnerships to enhance the quality of service.
- ❑ The country also aligns its actions with the African Union's Agenda 2063, as contained in the government's National Development Plan (also called Agenda 2030).
- ❑ Access to justice is provided for under Sections 35 (2)(c) and Section 35 (3) (g) & (o) of the Constitution of the Republic of South Africa, 1996.
- ❑ Legal Aid has a mandate provided by the Constitution to help poor and indigent people to obtain tax-funded legal assistance.
- ❑ Legal aid provides services to anyone who lives in South Africa, including non-citizens, on the following cases:
 - ❑ Criminal cases;
 - ❑ Cases that involve children; and Cases that involve asylum seekers – legal aid is available to asylum seekers applying or intending to apply for asylum under Chapters 3 and 4 of the Refugees Act 130 of 1998.



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Article 2: National Gender Machinery

- ❑ The Ministry for Women, Children and People with Disabilities (DWCPD) was restructured in 2014 to establish a stand-alone Ministry for Women in the Presidency.
- ❑ The functions relating to 'Children' and 'People with Disabilities' were moved to the Department of Social Development, in order for the Ministry of Women to focus on the specific socio-economic needs and challenges of women.
- ❑ The placement of the Ministry under the highest office in the land created an expectation that the challenges of the former DWCPD relating to poor budget allocations, political marginalisation from key economic discussions and ineffectiveness would be remedied.
- ❑ General perception in the gender sector is that the Ministry has failed to live up to these expectations as it remained one of the least funded Ministries in the country.
- ❑ In the period following the 2019 national and provincial elections, the Ministry for Women was once again combined with other vulnerable categories, and this time with 'youth' and 'persons with disabilities'.



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Article 2: National Gender Machinery

- ❑ In 2013, the CGE conducted a review of the effectiveness of the National Gender Machinery in the country.
- ❑ The report generally agreed with the concluding observations of the CEDAW Committee, that South Africa's NGM was weak, under-resourced and too fragmented to effectively promote gender equality and transformation.
- ❑ Information obtained from DWYPD in November 2019 revealed that the Department had officially commenced the process of resuscitating the NGM in September 2019.
- ❑ The Department produced a draft Framework document on strengthening and reviving South Africa's NGM.
- ❑ The purpose of the Framework as stated on the document is to, amongst several functions mentioned, update the National Gender Policy Framework, as well as to strengthen and revive the structural mechanisms of the NGM.



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Article 2: National Gender Machinery

- ❑ At the time of writing the report, DWYPD was conducting consultative workshops on the draft framework with various relevant stakeholders to obtain their views and gain their support on participating in the processes of reviving the NGM.
- ❑ the draft framework document was preceded by a series of NGM Forum meetings convened by the DWYPD.
- ❑ According to the Framework, the NGM Forum (made up of institutions such as relevant government departments, independent bodies and civil society organisations) has the responsibility for managing gender mainstreaming and its related processes in public and private institutions, and to broaden sectoral participation in the National Gender Programme.
- ❑ Given that the revitalisation of the NGM was still at an infancy stage when the report was compiled, a detailed analysis of the structure's effectiveness could not be conducted.



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Article 3: Guarantee of Human Rights and Fundamental Freedoms

UKUTHWALA

- ❑ Historically, the practice was based on the idea that two people in love, who want to be together, elope to avoid facing familial disapproval.
- ❑ The practice has evolved significantly and became distorted or deviated from its original purpose and function.
- ❑ South Africa regards the abuse of Ukuthwala as a harmful practice that robs girl children of their childhoods and impacts negatively on their health, development and the right to gender equality.
- ❑ Despite ukuthwala being regarded as a harmful practice it has not been criminalised in SA.
- ❑ However, there are pieces of legislation that are used to charge perpetrators of this harmful practice.



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Article 3: Legal Framework

- ❑ The Criminal Law (Sexual Offences and Related Matters) Amendment Act 41, which states that having a sex with a child without her consent following her kidnapping and abduction (Ukuthwala) constitutes rape in violation of section 15 of the Act;
- ❑ Section 17 of the same Act prohibits the sexual exploitation of children by their parents and others; and
- ❑ The Recognition of Customary Marriages Act no.42, states that both the bride and the groom must consent to a marriage. The age of consent is 18 years, while on the other hand in the practice of Ukuthwala, there is no consent.
- ❑ Due to lack of specific law against Ukuthwala in SA, the South African Law Reform Commission (SALRC) compiled a discussion paper and is currently developing a Bill in this regard.
- ❑ The proposed Bill has not yet been submitted to Parliament, while young women continue to be subjected to Ukuthwala and human rights violations by perpetrators.



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Article 3: Recognition of Polygamy in South Africa

- ❑ In terms of the RCMA, polygamous marriages are recognised and protected.
- ❑ However, Section 7(1) of the RCMA was declared unconstitutional in 2017 as it deemed discriminatory to women in customary marriages, particularly those in polygamous marriages.
- ❑ In order to rectify this, government drafted the Recognition of Customary Marriages Amendment Bill, approved by Cabinet on 24th July 2019 for submission to parliament.
- ❑ The new Bill provides for the equal treatment of women in monogamous and polygamous customary marriages in South Africa,



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Article 3: The Killing of “Witches”

- ❑ From early Christian times, witchcraft was associated with evil and was regarded as a rebellion against God or a rejection of the Christian religion.
- ❑ Killing of ‘witches’ (Abathakathi/Baloyi) is still rife in SA (and the African continent)
- ❑ Historically, witch-hunts have largely been gender specific, with a large percentage of victims being elderly and solitary women.
- ❑ Recent reports show that victims of witch-hunts include both women and men of all ages (SABC documentary)
- ❑ Despite the promulgation of Witchcraft Suppression Act people are still falling victim to witch hunts in South Africa.



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Article 3: Female Genital Mutilation

- ❑ The World Health Organisation does not list South Africa as a country where FGM is practiced.

- ❑ CGE CEDAW Report notes that FGM exists in South Africa in cultural groups from outside the country, especially prevalent in certain geographical areas i.e. Limpopo and MP provinces.

- ❑ It is difficult to source information on this subject as it is regarded as confidential, and those communities who practice it consider it a taboo to discuss it.

- ❑ Migrants in South Africa, including Sudanese and other African communities, continue practicing FGM.
- ❑ South Africa has enacted legislation which seek to address the issue of FGM.

- ❑ The Promotion of Equality and Prevention of Unfair Discrimination Act, (PEPUDA) known as the Equality Act, outlaws discrimination of any person on the grounds of gender and culture, including FGM.

- ❑ the Children's Act also explicitly prohibits genital mutilation or circumcision of female children, section 12(2) (a).

- ❑ South Africa's 5th Periodic country report is silent on this issue



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Article 4: Temporary Special Measures

- ❑ The latest country periodic report also omits to mention the Commission for Gender Equality, which is a Constitutional body established together with other institutions to promote democracy under Section 181 of the Constitution.
- ❑ One key mandate of the CGE as established is to monitor and evaluate the implementation of gender transformation policy and legislative frameworks to ensure promotion of gender equality in both the private and public spheres.



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Article 5: SEX ROLES & STEREOTYPING

- ❑ The country's 5th CEDAW report states that government has developed a Medium-Term Strategic Framework (2014-2019) that comprises 14 outcomes which focus on nation building and social cohesion.
- ❑ However, it does not touch on any efforts by government to address harmful practices and stereotypes that discriminate against women.
- ❑ There are court judgments that have sought to address some of the discriminatory actions of state institutions, including the school system (e.g. the Head of Department of Education, Free State Province v Harmony High School).
- ❑ Harmony High School had a policy which stated that pregnant girls must be absent from school for a certain period. The same policy allowed teenage fathers to continue with their studies uninterrupted.
- ❑ Research is replete with examples of girls being socialised to become home keepers and child-bearers, placing less value on their educational attainment.
- ❑ E.g. a study by the HSRC has found that this ranges from daily school practices that may discourage girls from pursuing studies in mathematics, science and other technical subjects, to the gendered norms regarding the domestic and physical labour of keeping the classrooms clean.



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Article 5: SEX ROLES & STEREOTYPING

Use innovative and effective measures to strengthen understanding of the equality of women and men, and work with the media to enhance a positive, non-stereotypical and non-discriminatory portrayal of women.

- ❑ People and institutions from all walks of life, including government, civil society organisations, the media, faith based organisations, have come together to raise awareness on the negative impact caused by violence against women and children in our country.
- ❑ Public education through media education campaigns, such as television adverts on LGBTQIA+ issues, Ukuthwala, etc. have reached many people across South Africa.
- ❑ A proposal by Government, and civil society organisations has been made to infuse issues related to GBV into the school curriculum as this would serve to educate society and create a mind-shift regarding the damage caused to society by violence against women and children.
- ❑ Government also introduced Project Ndabezitha. This is a public awareness and legal education initiative aimed at empowering rural communities on the issues of domestic violence.
- ❑ It is hoped that this approach might get rid of toxic forms of masculinity from society through socialisation and education.



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Article 5: SEX ROLES & STEREOTYPING

Report, in its next periodic report, on any developments regarding consultations on legislation to prohibit Ukuthwala, which is being conducted by the South African Law Reform Commission.

- ❑ The South African Law Reform Commission (SALRC) held public consultations with various stakeholders throughout the country on Ukuthwala.
- ❑ The consultations led to Discussion Paper 32, Project 139: The Practice of Ukuthwala. The discussion paper incorporates the draft Bill on the subject matter Ukuthwala.
- ❑ The SALRC was still waiting to meet with the Minister of Justice and Constitutional Development to discuss the paper and the proposed Bill before it is tabled in Parliament.

The Committee calls upon the State party to take the necessary actions to amend the Children's Act with the aim of prohibiting virginity tests for girl children

- ❑ Section 12 of the South African Children's Act 71 deals with social, cultural and religious practices, and states the following: Section 12 (1) Every child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her wellbeing; and, Section 12(4) Virginity testing of children is prohibited.



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Article 5: SEX ROLES & STEREOTYPING

- ❑ The Act does include the prohibition of virginity testing as per CEDAW Recommendations.
- ❑ However, children below 16 cannot be tested while children above 16 may be tested, provided there is consent and that counselling is provided.
- ❑ Even with the current legal prohibition on virginity testing on children below the age of 16, such practices continue unabated in many communities in the country.
- ❑ These practices persist, in some cases, with the support of some local state institutions. For example, in 2016 the media carried reports of a bursary scheme (the so-called Maidens Bursary Scheme)
- ❑ This practice is fiercely defended by traditional authorities and leaders as an integral part of the Zulu culture.
- ❑ On the other hand, institutions supporting constitutional democracy such as the CGE and the SAHRC, have been and continue to demand a total ban on the practice of virginity testing.



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Article 5: Violence Against Women

Give priority attention to the results of the report of the study, commissioned by the Government and conducted by the Centre for the Study of Violence and Reconciliation (CSV).

❑ One of the key policy and institutional developments introduced by the government in the wake of the CEDAW Committee Recommendations was the establishment of the National Council on Gender Based Violence which was formally launched on 10 December 2012.

❑ The NCGBV was established to function as a multi-sectoral strategic body that coordinates, monitors and evaluates the implementation of all national strategies and programmes to combat GBV.

❑ The NCGBV did not last for more than two years, and ceased to exist after the 2014 general elections.

❑ Among the reasons for its failure were the following: unclear legal and institutional status, lack of independence, limited resources and funding which further affected capacity, and the lack of diversity among its civil society role players due to the dominance of government.



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Article 5: Violence Against Women Cont...

- ❑ On the 1 August 2018, civil society organisations, gender activists and ordinary women across the country embarked on marches, demanding that President Cyril Ramaphosa place the issue of GBV on the national agenda.
- ❑ The protests led to the first ever Presidential Summit on GBV and Femicide which was hosted in November 2018.
- ❑ Part of the summit resolutions was an agreement to establish an interim committee that would work towards the establishment of a permanent structure. The interim committee was established in early 2019 and at the time of writing this report, it was still engaged in the process of establishing the ultimate structure.
- ❑ In 2013/14, government did attempt to formulate an NSP to combat GBV, but these efforts did not bear results; thus prompting civil society organisations to embark on their own Shadow NSP which was completed and disseminated. This was rejected by government.
- ❑ Also, in 2013/14 the Department of Social Development introduced the Intergraded Programme of Action (IPOA). The IPOA suffered a number of institutional challenges.
- ❑ In 2013, the government took a decision to re-establish the Sexual Offences Courts in South Africa following the passing of the Judicial Matters Second Amendment Act.



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Article 5: Violence Against Women Cont...

Raise public awareness, through the media and education programmes.

- ❑ A number of awareness-raising programmes have been initiated by government and civil society over the years.
- ❑ Many of these interventions have obviously not yet borne much fruit as the country continues to face an unyielding or even escalating scourge of violence against women and children.
- ❑ Interventions ranged from; the annual 16 Days of Activism for No Violence Against Women and Children Campaign, The 365 Days of Activism Campaign stems from the 16 days of Activism Campaign, #CountMeIn, 100 Men March, #TotalShutdown marches,



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Article 5: Violence Against Women Cont...

Mechanisms of accountability to ensure implementation of provisions of policies and legislation.

- Several mechanisms of accountability exist to ensure the implementation of provisions of policies and legislation related to combating GBV/VAWC in South Africa.
- These include the DWYPD, National Gender Machinery, the Parliamentary Portfolio Committee on Women, the CGE and the South African Human Rights Commission.
- However, many of these mechanisms have not yielded the desired results



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Article 5: Violence Against Women Cont...

Budget allocations for the implementation of various projects, programmes, including social support services for victims.

- ❑ State budgeting for the implementation of GBV-related projects and programmes is currently unsystematic and obscure.
- ❑ According to KPMG, “assuming that one in five women experience violence within the year, the minimum annual cost to the South African economy of that violence is R28.4 billion”.
- ❑ There was however, lack of clarity on the costing and budgeting around GBV in departmental budgets, which creates a situation whereby it becomes difficult to evaluate the capacity of state funding in order to assess its sufficiency, and any gaps which exist.
- ❑ In September 2019, President Ramaphosa announced an emergency plan to combat GBVF and allocated R1.6 billion towards that 6 months plan.
- ❑ It is hoped that the NSP will also be costed and allocated budgetary resources accordingly.



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Article 6: Trafficking and exploitation of prostitution

- ❑ The introduction and effectiveness of the Prevention and Combatting of Trafficking in Persons Act 2013
- ❑ The provision of training for all professionals working in the anti-trafficking field
- ❑ Lack of comparative studies on trafficking and prostitution by the SA government
- ❑ Challenges around systematic monitoring and periodic evaluation on the collection and analysis of data on trafficking and exploitation of women in prostitution in SA
- ❑ Lack of efforts at international, regional and bilateral cooperation by SA



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Article 7: Participation in political and public life

Post 1994 and the importance of the SA Constitution towards women's elevation to central political and public positions.

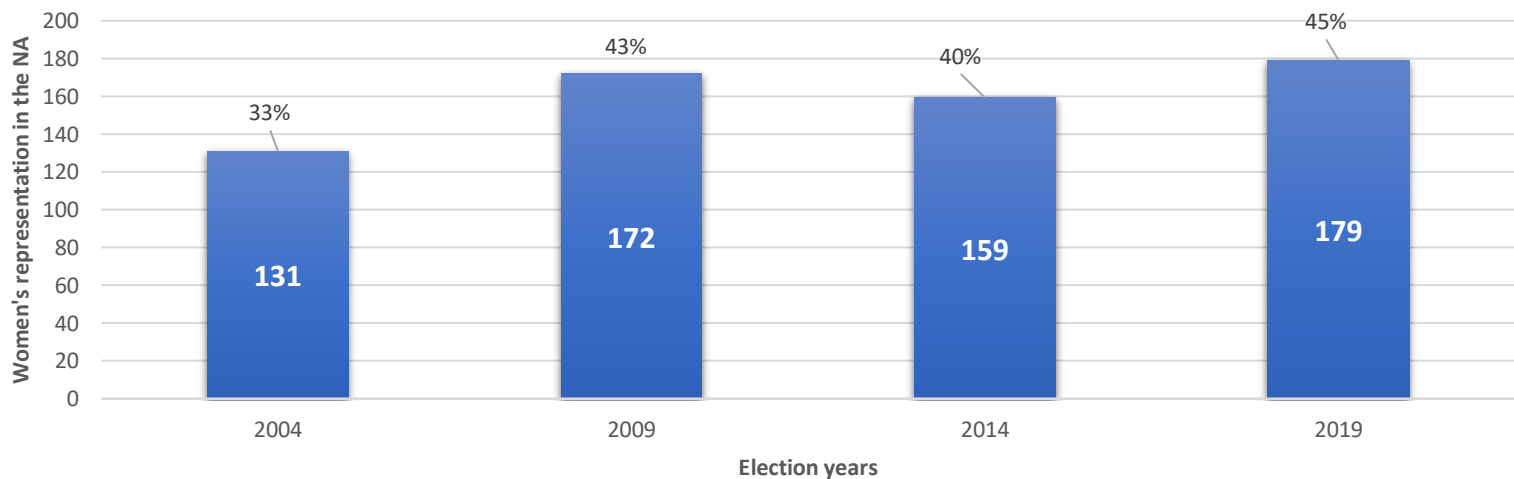
- ❑ Slow progress in the enforcement of policy on the 50/50 gender representation
- ❑ Steady increase in registration of women voters since 2009, however this representation was not reflective within the highest leadership structures of many of the major political parties in South Africa prior to and soon after the 2019 elections



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- The below table presents the trajectory of progress in women's representation in South African National Assembly (NA) from 2004 to 2019 national elections.

Women's representation in the NA, 2004 - 2019





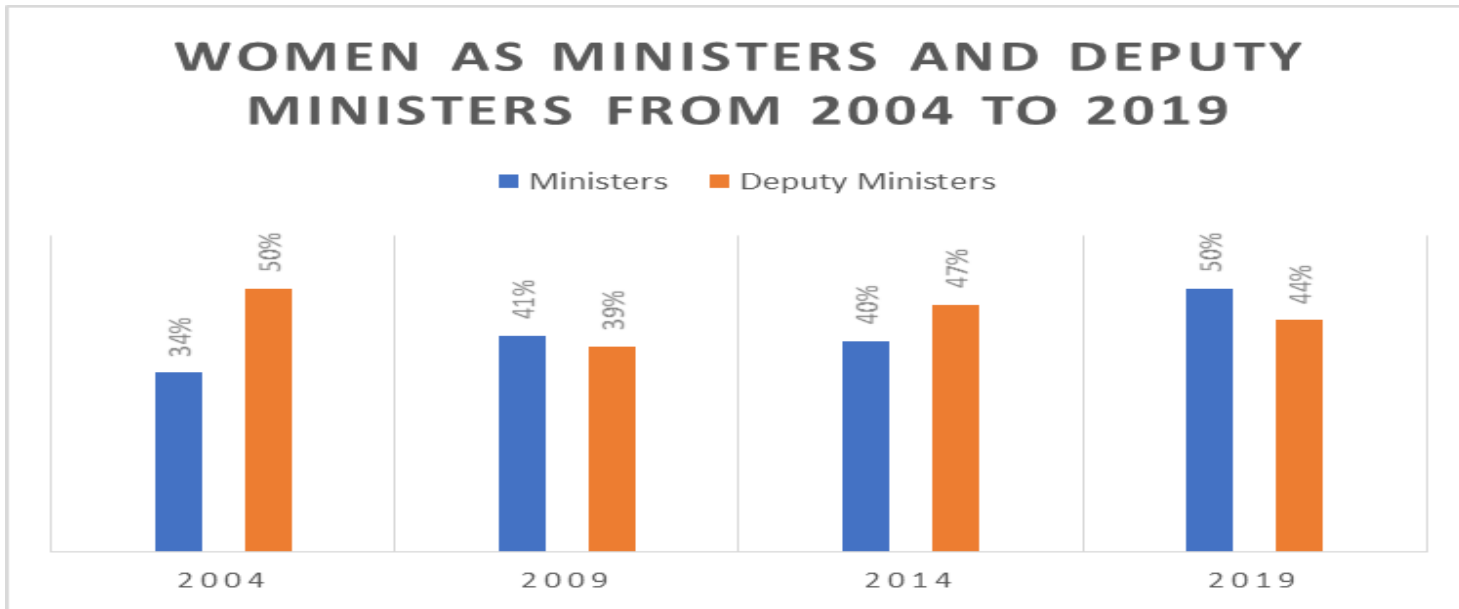
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Article 7: Participation in political and public life

- ❑ 48 political parties were contesting the 2019 national elections, only four were women-led.
- ❑ And only two female-led political parties secured enough votes to occupy seats in Parliament
- ❑ The positions of President and Deputy President are both occupied by men following the 2019 elections.
- ❑ The 2019 elections saw the appointment of a female Speaker of the NA, a decline when compared to 2014 national elections where both Speaker of the NA and the Chairperson of the National Council of Provinces (NCOP) were women.
- ❑ The May 2019 national elections recorded the highest recorded representation of women at 45% to men 55%
- ❑ Unfortunately the NCOP has been on a downward spiral from 41% in 2005 to 21% in 2019.



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- The above graph shows the number of female Cabinet Ministers and Deputy Ministers between 2004 and 2019.
- An increase can be seen in female-headed ministerial positions from 34% in 2004 to 41% in 2009



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Article 7: Participation in political and public life

- ❑ A slight dip at 40% in 2014 before going up again in 2019 at 50%
- ❑ Interestingly after 2004, women no longer dominated the position of Deputy Minister as an alternative for not being cabinet Ministers.
- ❑ For the first time a 50/50 gender parity between men and women in the National Assembly was accomplished following the 2019 elections.
- ❑ However critical ministries such as the Ministry of Finance (i.e. National Treasury) have never been occupied by a woman, this still holds true following the 2019 elections.

Women representation at senior levels in the Public Service

- ❑ Figures provided by the Public Service Commission for 2018/2019 show that women in top management positions (Level 15-16) made up 29%, which is two women out of seven positions
- ❑ Senior Management (Level 13-14) accounted for 41.6% which equates to 35 women out of 84 positions.
- ❑ There was a deficit of 9% in terms of reaching the national target of 50% women representation at SMS levels (Level 13-16)



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Article 7: Participation in political and public life

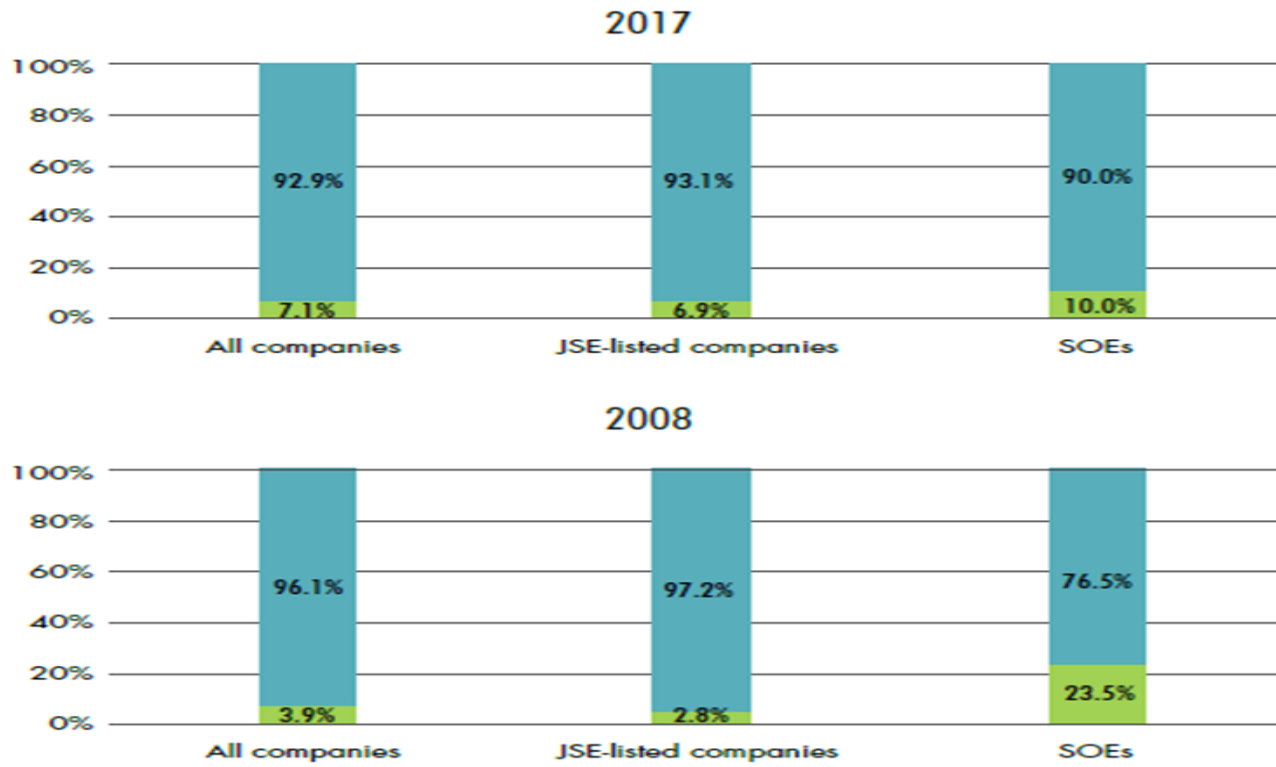
❑ *Female Representation in the Judiciary*

- ❑ Four of the eleven Justices of the Constitutional Court are women (at the time with one open vacancy)
- ❑ Women constituted 29% of the Judges of the Supreme Court of Appeal (i.e. eight women out of 28 judges),
- ❑ The only positive development is that the President of the SCA is a woman.
- ❑ Regarding women as Magistrates, 47.8% were women (863 out of 1803 magistrates).



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❑ **Female Representation in the Business Sector**





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- ❑ In the previous graph, the Johannesburg Stock Exchange-listed (JSE) companies had three in 20 directors being women and holding executive director roles. Female directors accounted for 19.1%.
- ❑ The number of women CEOs increased from seven in 2015 to fourteen in 2017.
- ❑ The share of JSE-listed companies with at least three female Directors has decreased to 25.6% in 2017 compared to 35.9% in 2015.
- ❑ The below table depicts a comparison between JSE-listed firms and SOEs in 2017

	<i>JSE-listed</i>	<i>SOEs</i>
Share of female CEOs	4.7%	5%
Share of female Chairpersons	6.9%	10%
Share of female Directors	19.1%	41.2%
Share of female Executive Managers	29.5%	28.5%



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Article 7: Participation in political and public life

- ❑ The above table demonstrates the sluggish gender transformational patterns within the leadership of private sector organisations, as well as state-owned enterprises.
- ❑ Due to a lack of progress, the CGE has been conducting a series of employment equity hearings and calling on the leadership of organisations and institutions to appear before the CGE to account for their poor levels of women's representation in leadership positions.

Implementation of awareness-raising activities on the importance of women's participation.

- ❑ Efforts at promoting and highlighting women's issues occur annually during Women's month (August) in SA.
- ❑ During the above-mentioned period, the Department of Women, Youth and Persons with Disabilities (DWCPD) usually leads the country through nation-wide activities to highlight issues of concern for women.
- ❑ In 2019, this included the commemoration of the 65th Anniversary of the Women's Charter.
- ❑ Focus was also on young women and women with disabilities.



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Article 7: Participation in political and public life

- ❑ Parliament and provincial legislatures also have initiatives such as convening the Women's Parliament sessions during the National Women's Month in August.
- ❑ Development of targeted training and mentoring programmes for women in public sector
- ❑ Government has created the National School of Governance (NSG) in 2013, which is a schedule 1 government department.
- ❑ The Accelerated Development Programme from NSG aims to fast-track the advancement of middle managers in the public service.
- ❑ Another is the Executive Development Programme aimed at equipping participants with knowledge and skills to perform as senior managers and team leaders.



❑ **Article 8**

❑ ***International Representation and Participation***

- As of 19 September 2019, the appointment of women ambassadors was 35%, with 13 vacancies unfilled.
- Chargé d'Affaires (deputy ambassadors) appointments were at 31%, High Commissioner appointments were 43%, with 5% vacancies unfilled, and Consular-General appointments were 46%, with 15% vacancies unfilled.

Table 2: The total representation in terms of gender at missions abroad 2015

Gender	Male	Female	Total
The representation	337	386	723
Percentage	47%	53%	100



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ARTICLE: 9 Nationality

- ❑ South Africa has put in place a legislative and policy framework as stipulated by the Constitution of the republic of South Africa, 1996, on how nationality and citizenship are defined and how one qualifies to be a South African citizen.



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ARTICLE: 10 Education

❑ LEGISLATIVE FRAMEWORK

- Basic Education Law Amendment Act
- South African Schools Act 153;
- The National Education Policy Act 154;
- The Employment of Educators Act 155;
- The South African Council for Educators Act 156; and,
- The General and Further Education and Training Quality Assurance Act

▪ POLICIES AND GUIDELINES

- Guidelines for the provision of boarding facilities in public ordinary schools, 23 July 2012;
- Rights and responsibilities of parents, learners and public schools: Public School Policy Guide. 2005;
- Policy Document of Adult Basic Education and Training, 12 December 2003;
- Improving Access to Free and Quality Basic Education to All, 14 June 2003; and,
- National Education Policy Act 158 - Admission Policy for Ordinary Public Schools, 1 October 1998.



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ARTICLE: 10 Education

Take steps to ensure de facto equal access of girls and young women to all levels of education, to retain girls in schools, and to strengthen the implementation of re-entry policies enabling young women to return to school after pregnancy, across the country

- ❑ DBE & DHET are key government institutions that implement education in RSA
- ❑ For the 2017/2018 financial year, the government allocated 17% of its spending to the DBE. For 2019/2020 R24.5 billion was allocated to the DBE, an increase from the previous year of 3.4%.
- ❑ The DBE drafted the National Policy on the Prevention and Management of Learner Pregnancy in Schools. The policy is underscored by the alarming rate of learner pregnancy in South Africa, which Statistics South Africa asserts stood at 97,143 births by teenagers in 2017.
- ❑ Policy guarantees the right of learners to return to school following the delivery of their babies, in line with the government's Comprehensive Sexual Education programme.
- ❑ Despite this, the National Policy has not been implemented, and individual school governing bodies are at liberty to create and implement their own policies, which are often discriminatory
- ❑ Moreover, while the policy refers to a "learner", it is centered around young girls who become pregnant, neglecting to speak to the rights and responsibilities of young boys who are teenage fathers.
- ❑ Alongside the growing rate of teenage pregnancy, menstruation is another reality that contributes to retention or absenteeism.



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ARTICLE: 10 Education

Provide safe educational environments free from discrimination and violence, as well as safe transportation to and from schools, and closely monitor the implementation of the Safe Schools Programme;

- ❑ While South Africa has appropriate legislation including the Criminal Procedures Act169, the Children's Act170, the Children's Amendment Act171, and the South African Schools Act of 1996, violence and discrimination remain a grave reality and concern for girl children in schools.
- ❑ For queer learners, the schooling system is seemingly a violent space which perpetuates negative stereotypes. A study found that these negative experiences range from punitive actions expressed through derogatory language to vicious reactionary hate, often expressed through violence, and often perpetrated by teachers
- ❑ A National School Safety Framework document was drafted and approved by the Minister of Education in April 2015
- ❑ The Safe School Programme has not been far reaching. While some provinces in the country are active and engaged implementation of the programme, others are not well resourced, or are not appropriately included in the structures of the DBE.



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ARTICLE: 10 Education

- *Strengthen awareness-raising and training of school officials and students, and the sensitisation of children through the media; and establish reporting and accountability mechanisms to ensure that perpetrators of sexual abuse and harassment are prosecuted and punished*
 - The development and distribution of a handbook for learners entitled *Speak Out! A handbook for learners on how to prevent sexual abuse in public schools*, and a teachers manual, entitled *Opening your eyes -Addressing Gender-based violence in South African schools*
 - The DBE has also launched a website titled ‘**Speak Out Freely**’ (www.speakoutfreely.co.za) which focuses on learners’ understanding, and the prevention and reporting of sexual abuse. The Department has partnered with local organisation LEAD SA on another campaign, **STOP RAPE!** to raise awareness and educate at least 10,2 million learners on rape
 - Campaign documents published in 2013 highlight the education campaign included a pledge through the Bill of Responsibilities, which has been made available in the 11 official languages of the country. DBE has also used social media platforms such as Facebook for educational purposes for learners and teachers through the *Girls Education Movement and Boys Education Movement*.
 - While the programmes and projects have been established, schools are not legally obliged to adopt guidelines, therefore further limiting their effectiveness



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ARTICLE: 10 Education

- ❑ *Widely disseminate the Guidelines for the Prevention and Management of Sexual Violence and Harassment in Public Schools, and ensure enforcement and monitoring of the provisions recommended to curtail the problem*
 - South Africa's 5th Periodic Report on the implementation of CEDAW asserts that the *Guidelines for the Prevention and Management of Sexual Violence and Harassment in Public Schools* have been distributed to all schools across the country, and serves to improve the measures taken to create safe schooling environments
 - Nonetheless, sexual violence and harassment in schools remains high
 - The South African Council for Educators - a teacher's regulatory body- tabled a report in Parliament, and highlighted that out of 633 misconduct cases, 93 were associated with sexual assault, indecent assault, sexual misconduct and rape
- ❑ *Ensure necessary budgetary allocation for the implementation of various projects and programmes*
 - Both DBE and DHET documents entitled *2019 Budget: Estimates of National Expenditure*, neither departments have specific budgetary allocations are made for sub-programmes which centre gender



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ARTICLE: 11 Employment

- ❑ South Africa has enacted a plethora of legislation which seek to address the issue of inequality in the workplace.
- ❑ New parental leave legal provisions (introduced through Sections 1-7 of the Labour Relations Amendment Act, no. 8 (2018)) - signed into law by President Ramaphosa on 27th November 2018 and came into effect on 1 January 2019
- ❑ The new legislation means that all parents – including fathers, adoptive parents, and surrogates – are now entitled to ten days unpaid parental leave when their children are born, when they adopt their child or when they give birth
- ❑ This is a step in the right direction, although these leave entitlements are unpaid, and qualifying employees are eligible to apply to the Unemployment Insurance Fund for income replacement benefits during the leave period
- ❑ Government institutions and departments underline that there is no wage disparity between men and women holding the same position although the same cannot be said about the private sector
- ❑ This can also be blamed on the government's failure to monitor and enforce compliance in terms of labour law within the private sector.
- ❑ Women are still bearing the brunt of sexually harassment in the workplace



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ARTICLE: 12-Equality in Access to Health Care

- ❑ ***Ensure the implementation of the Maternal Child and Women's Health Strategy (2009-2014).***
 - With regards to ensuring the implementation of the Maternal Child and Women's Health Strategy (2009-2014) the South African government has made a number of strides, however a number of challenges remain in this regard and include the following:
 - Free health care for pregnant and lactating women, and children under the age of 6, has improved access to health care. According to Statistics South Africa (2019), the infant mortality rate has dropped from a high of 281 in 2009 to a low of 121 in 2016, and there has been a decrease in illness and deaths amongst women.
 - With regards to the levels of child malnutrition, there has not been much progress. According to the South African Demographic Health Survey of 2016, it shows that 27% of children under the age of five are stunted, 3% are wasted, and 6% are underweight, and disconcertingly, 13% of children are overweight. This shows that issues around malnutrition still require urgent attention.



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ARTICLE: 12-Equality in Access to Health Care

- ❑ With regards to continued and sustained measures to address the impact of HIV/AIDS on women and girls, as well as its social and family consequences the South African government has made a number of strides but also a number of challenges still remain in this regard and this includes the following:
 - The response to HIV and AIDS was limited prior to 1994, however, since the National Strategic Plan (NSP) on HIV, TB & STI's 2017-2022, was developed to address HIV and AIDS in South Africa there have been some marked improvements. According to South African History online (SAHO), the NSP has resulted in an increase in overall budget allocation for ARV treatment, to ensure that its second target of 80% coverage was reached by 2016.
 - In 2016 Dr. Fareed Abdullah, Chief executive of South African National AIDS Council (SANAC), revealed that an estimated R23 billion a year was being spent by the government on HIV/AIDS in South Africa, 80% of which came from the government and the balance from donors.
 - Despite these efforts by the government of South Africa, more needed to be done given that South Africa continues to have one of the countries with high rates of HIV/ Aids infections.



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ARTICLE: 12-Equality in Access to Health Care

- For example, figures provided by various scholars and institutions, including UNAIDS and SANAC, also indicate that infection rates among the youth (both boys and girls aged 15-24) in South Africa are extremely high at 87% of the total, and that the infection rate among girls/young women in the age category 15-24 were three times higher than among boys/young men in the same age group.

- ❑ ***Take measures to broaden and strengthen Prevention of Mother to Child Transmission (PMTCT) services in order to achieve its target rate of 5 per cent for Mother to Child.***

- ❑ With regards to measures taken to broaden and strengthen PMTCT there have been a number of successes but also challenges and these include the following:
 - Progress has been recorded in scaling up Prevention of Mother to Child Transmission (PMTCT) of HIV from 71% in 2009 to 99% in 2013, resulting in a reduction in mother to child transmission from 8% in 2008 to 2% in 2013. This resulted in a 97% reduction in mother to-child transmission of HIV.



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ARTICLE: 12-Equality in Access to Health Care

- ❑ She Conquers programme started in 2016, with the aim of decreasing new HIV infections, teenage pregnancies and gender-based violence among young women and adolescent girls, to increase and retain young women and adolescent girls in school, and to increase economic opportunities for young people, particularly young women has had some successes.
- ❑ Coverage has been good, with She Conquers covering a total of three million young women, within 22 priority subdistricts, across all nine provinces of South Africa.
- ❑ Despite some of the successes of the She Conquers programme in reducing mother to child transmission, Subedar et al. point out that several challenges remain, including the following:
 - Political and funding problems meant that some implementing partners were unable to offer the full package of sexual and reproductive health services in all districts;
 - There is a lack of dedicated resources for sustained youth engagement at all levels of government. Engagement is hampered by the shortage of strong youth networks and the lack of a common platform for young people.



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Sexual Reproductive health Rights

- ❑ The realisation of women and girls' reproductive health and rights was one of the key agenda items of the International Conference on Population and Development (ICPD), held in 1994.
- ❑ This was with the realisation that fulfilling the rights of women and girls was central to the development agenda.
- ❑ Sexual and Reproductive Health Rights (SRHR) is an important key precondition for women's empowerment.
- ❑ Central to SRHR, is the ending of GBV, and harmful practices including FGM.
- ❑ There is a growing recognition of the importance of linking reproductive rights and gender equality for the effective response to persistent gender inequalities and gender-based violence epidemics currently engulfing South Africa.



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ARTICLE: 12-Equality in Access to Health Care

- ❑ It should be noted though that the government has certainly made efforts to respond to the CEDAW Committee's Concluding Recommendations with regard to equality of access to healthcare.
- ❑ However, several challenges and obstacles continue to bedevil these efforts.
- ❑ Some of these challenges are around general systemic issues such as lack of funding, ineffective implementation, poor resource allocation and resource management, as well as lack of capacity and skills, negative attitudes of healthcare workers, prejudice and stereotypes towards people with HIV/AIDS or other health conditions - including prejudicial and discriminatory practices towards women's sexual and reproductive health rights, which often fuel the scourge of violence against women.



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ARTICLE 15: Sexual Orientation

- ❑ The CGE has noted the initiatives that government has put in place as state responses to mitigate and remedy the scourge of hate crimes and violations perpetrated against LGBTIQ+ community.
- ❑ Such measures include the establishment of the National Task Team (NTT) on Gender and Sexual Orientation-Based Violence Against LGBTI-Persons which was established by the Department of Justice in 2011 to address homophobic rape.
- ❑ The NTT developed a National Intervention Strategy (NIS) for the Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Sector (years 2014-2017) to address the so called “corrective rape” and other forms of violence directed to the LGBTIQ.
- ❑ The development of the other NIS was underway during the compilation of this report, as the other one lapsed in 2017.



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ARTICLE 16:

❑ **Equality in Marriage and Family**

- Positive developments in South Africa's marriage legal regime occurred as a result of court cases brought before the Constitutional Court due to issues of concern with laws regulating marriages.
- Cases such as *The Bhe v Khayelitsha Magistrate case*; *the Shibi v Sithole case*; and *the South African Human Rights Commission v President of the Republic of South Africa cases*
- The significance of the outcomes of these cases is that they addressed the issue of inheritance and property rights, especially in customary marriages in South Africa.
- Prior to the above cases, laws governing marriages in SA were seen to be characterized by an unfairness towards women resulting from the prevalent cultural doctrine of male primogeniture that governs inheritance in African traditional and rural communities and other households.
- Courts found the principle of male primogeniture and the disputed sections of legislation, did not acknowledge women's rights. It further infringed upon their fundamental right to equality and human dignity by hindering women and children from inheriting property.



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ARTICLE 16:

- This led to the Reform of the Customary Law of Succession and Regulation of Related Matters Act (the “Reform Act”).
- The above Act came into effect in 2010, thus giving effect to the decisions of the Constitutional Court. It further enabled the reformed customary law of succession to be more in line with the relevant provisions of the Constitution.
- This was by abolishing the customary rule of male primogeniture as it applied to the law of succession. It further extended the application of the Interstate Succession Act by providing guidelines for interpretation thus safeguarding and protecting women’s right to inherit property.
- The introduction of the Recognition of Customary Marriages Act (RCMA) came into effect in 2000 as a means of correcting past discriminations against African women by recognising all African customary marriages in South Africa.
- This was done by providing women in customary marriages the same status and protection as women in civil law marriages.
- Despite good intentions, section 7(1) of the Act stipulated that, “[t]he proprietary consequences of a customary marriage entered into before the commencement of the Act continues to be governed by the marriage legislation that existed prior to the RCMA, such laws were discriminatory to women married in customary law.



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ARTICLE 16:

- ❑ On the 30th of November 2017, the CC ruled in confirmation of an earlier judgment by the High Court of South Africa, Limpopo Local Division, Thohoyandou, in terms of section 172(2)(a) of the Constitution, that section 7(1) of the RCMA was Constitutionally invalid.
- ❑ This is because, according to the Constitutional Court, this section discriminated unfairly on the basis of gender, race, ethnic or social origin, against women in polygamous customary marriages, especially those entered into before the commencement of the RCMA.
- ❑ However, having declared section 7(1) of the RCMA invalid, the Constitutional Court decided to suspend this declaration of invalidity, pending Parliament's amendment of the offending provision of the RCMA. In the meantime, the Constitutional Court has provided an interim relief for those negatively affected by Section 7(1) of the RCMA.
- ❑ Following this ruling, government took steps to effect the necessary changes in order to abide by the court judgements from the cases listed above (e.g. Gumede v The President of South Africa and Others and Ramuhovhi and Others v The President of South Africa and Others).
- ❑ Other amendments have included the Draft Recognition of Customary Marriages Amendment Bill, 2009 that seeks to amend certain provisions of the RCMA which are detrimental to widows and spouses. Further amendments to the Act occurred in 2018 and 2019.



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ARTICLE 16:

□ *Prepare a unified family code in conformity with the Convention*

- South Africa is one of the few countries globally with an active legislation to deal specifically with the area of family policy.
- This is done through the White Paper on Families which was approved by Cabinet in 2013, and aims to deal with matters related to families, their challenges, and strategies to uphold family structures and related matters.
- The importance of family as a policy area is also reflected in the fact that government's long term National Development Plan (NDP) 2030 also makes reference to the issue of family.
- Acknowledging recommendation 42b by the Convention on the Elimination of All Forms of Discrimination Against Women, South Africa's 5th Periodic Report argues that having one marriage law for all the different types of marriages in the country is unlikely to work.



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ARTICLE 16:

- The above complexity is the result of the country's history, its multi-racial, multi-cultural and multi-religious composition, which allows and caters for different marriage systems.
- Marriages in South Africa are regulated through several pieces of legislation: The Marriage Act , which applies to monogamous heterosexual couples; the RCMA, which caters for traditional, polygamous heterosexual couples; and the Civil Unions Act , which makes provision for monogamous partnerships for both same-sex and heterosexual couples.
- Despite what the government had said previously, it would appear now that the it has changed its initial position of allowing multiple pieces of legislation to regulate marriages in South Africa, and is now pursuing a single, consolidated piece of legislation to regulate all marriages in South Africa.
- As of August 2019, the Department of Home Affairs and Minister of Home Affairs, Aaron Motsoaledi, were driving a nation-wide consultative process in preparation for drafting the country's consolidated marriage legislation.
- This legislation, it is hoped, would, among other things, cater for previously excluded marriages in both religious and traditional communities, and deal with the inequities in current marriage law, including the scourge of underage marriages.



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Conclusion

- ❑ Based on this review, it is clear that the country has, in many areas, made progress and advancements in meeting the obligations imposed by the CEDAW.
- ❑ In areas such as policy and legislative or law reform, tremendous progress has been made over the years, including the reporting period covered in this report (i.e. 2011 – 2015).
- ❑ Also, a number of institutional reforms, strategies and programmes aimed at dealing with gender-based violence, including discrimination and violence against women, have been put in place over the years.
- ❑ However, it is clear that in many areas of compliance, the government has done the bare minimum of what was required in terms of the CEDAW Obligations. Much of the challenge has been at the level of administrative and implementation action.



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Thank You

***HAVE A GENDER RELATED COMPLAINT ????
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