



South African Statement to the 54th Session of CEDAW on Women's Access to Justice in the Context of the CEDAW Convention, Geneva, 18 January 2013

Since the dawn of democracy our government has made strides in the attainment of access to justice for its citizens. Our Constitution is our greatest achievement in which the right to human dignity and achievement of equality are enshrined to all its citizens.

The South African Government has, in its Constitution enshrined, access to justice, in particular for women, as a fundamental human and democratic right, a central pillar of a free and equal society. We are also a States Party to all the regional and continental instruments in the area of women's rights. The necessary Framework is in place; however we are like other Members of the United Nations, grappling with the achievement of protection mechanisms

South Africa is also working on finalizing the passing of the Women and Empowerment and Equality Bill. The Bill which has obtained Cabinet approval, and which is now undergoing a process of public comment, is aimed at enforcing compliance in both the Government and the private sector in matters of gender mainstreaming and equality. It also seeks to provide the Minister of Women, Children and People with Disabilities with the necessary authority to monitor, review and oversee gender mainstreaming and integration of gender equality considerations into all programmes of government and other sectors and to promote the protection and advancement of women as envisaged in Section 9 (2) of the Constitution.

As was presented by President Jacob Zuma, on the occasion of the High-Level Meeting on the Rule of Law, South Africa is committed to the advancement of women's rights, a commitment consistent with our constitutional framework, our values and our international obligations.

It is, however, important to address the impediments to access to justice for women, such as poverty, language, lack of communication. Poverty makes it difficult for the poor to enjoy equal benefits of the provisions of the law. It is therefore imperative that they be empowered. In order for this to happen the poor to be legally empowered, they must have effective, legally protected rights, not just the right to vote, the right to free expression, and the right to due process. South Africa believes that it is a central

purpose of democratic societies to provide these rights, and an on-going challenge to do so consistently and equitably. Transforming society to include the poor requires comprehensive legal, political, social and economic reforms. In our case it is fortunate that Legal Aid South Africa continues to offer legal representation to the indigent free of charge. South Africa recognizes that it is necessary for protection to include remedies to victims.

Gender equality is a national priority and therefore the need to promote access to justice for women. Over the past few years, South Africa has continued to launch Thuthuzela Care Centres for victims of sexual and domestic violence who needed to find temporary shelter while sorting out lasting solutions. The number of Centres now stands at 27.

This is in response to the Article 2(c) of the Convention on the Elimination of All Forms of Discrimination against Women in which States Parties undertake to establish legal protection of the rights of women on an equal basis with men and ensure through competent national tribunals and other public institutions

Despite the achievements and strides many challenges however remain. Lack of communication around cases, on the other hand, means that victims have to travel long distances for postponements. As a result of this the Government is exploring the Audio Visual Remand System through which victims will attend sittings where cases will actually be fruitfully dealt with in court.

South Africa believes that whilst judicial remedies are indispensable for implementing and enforcing human right protections, non-judicial remedies can significantly enhance access to justice. In this regard bodies such as the South African Human Rights Commission, the Commission on Gender Equality and the Public Protector were created to play a meaningful role. The Government believes that measures to improve access to justice should focus on developing low-cost delivery models, taking into account the cost of legal services and remedies, the capacity and the willingness of the poor to pay such services, congestion in the court system, the incentives of the judiciary and law enforcement agencies and the efficacy of informal and alternative dispute resolution mechanisms.

The South African Commission for Conciliation, Mediation and Arbitration has achieved a moderate degree of success and the Government is continuously looking for ways to establishing similar tribunals to make justice more available in line with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women.

The Government has gone one step further to promote and protect the rights of women who are particularly vulnerable to the dangers of gender-based violence and has put into place transformative legal remedies in the form of the Domestic Violence Act of 1998, the Maintenance Act of 1998, the Promotion of Equality and Prevention of Unfair

Discrimination Act of 2000, the Employment Equity Act, Child Justice Act and Children's Act.

Former Constitutional Court Justice Albie Sachs once said that as a society we cannot restrict ourselves to seeing the problem of access purely in terms of finding more funds and extra people to help those who cannot afford to hire lawyers. He said that there are other ways of achieving greater access, such as removing barriers such as laws being written in more accessible languages and in the languages used by the people affected by them.

South Africa remains committed to doing all that is necessary to ensure the upliftment of women throughout our country, while contributing to the promotion of the respect of women's rights throughout the world. South Africa wants to close the gap between the legislative and the actual protection including reducing the scourges and manifestation of violence against women.