

# Policy Brief 8

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

## Victims Charter: The Gap Between Policy and Implementation:

Assessing Implementation by the National Prosecuting Authority  
and the Department of Social Development.

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## 1. INTRODUCTION

South Africa is one of the state parties to Convention on the Elimination of Discrimination Against Women (CEDAW), which prohibits gender-based discrimination and violence against women. In order to fulfil its obligation, South Africa has adopted an integrated approach that focuses on victim empowerment through meeting the victims' needs holistically. The Victims Charter (VC) serves as a framework that sets minimum standards for upholding the laws and policies relating to the rights and services for victims of crime and violence.

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The implementation of the Service Charter for Victims of Crime (the Victims Charter) is the responsibility of several government departments and agencies at national and provincial level. The national Department of Justice and Constitutional Development (DJ&CD) is the lead institution, ensuring that policy is implemented effectively at national, provincial and local levels. The DJ&CD, together with five other partnering institutions constitute the Justice Cluster. These five institutions are the Department of Social Development (DSD), the National Prosecuting Authority (NPA), the Department of Health (DOH), the South African Police Services

(SAPS), and Department of Correctional Services (DCS).

An interdepartmental team serves as the strategic management team of the VC, responsible for policy and programme formulation and ensuring uniform policy implementation across provinces. It is aimed at ensuring recourse for the victims of gender-based violence.

This Policy Brief is based on a study conducted by the Commission for Gender Equality (CGE) in 2010 into the implementation of the Victims Charter by the NPA and the DSD. The purpose of this Policy Brief is to identify key policy issues and recommendations emerging from the findings of the study, in order to promote discussion and dialogue with policy-makers as part of a series of Policy Dialogues initiated by the CGE in 2012.

## 2. STUDY APPROACH AND METHODS

The study focussed on the work of the DSD and the NPA in five provinces (i.e. Gauteng, Eastern Cape, KwaZulu-Natal, Western Cape and Northern Cape). A schedule of questions was used for both national and provincial officials involved in the implementation of the VC. The questions sought to focus attention on a number of key issues such as implementation of the Charter, monitoring, coordination, complaints handling, training, support programmes and resources.

The distribution of respondents was as follows:

- Two national officials in the NPA were interviewed. One coordinates the Victim Empowerment Programme (VEP) while the other coordinates the Victims Charter. One DSD official, who is

*responsible for both VC and VEP programmes, was interviewed.*

- Five DSD provincial coordinators were interviewed.
- Five NPA coordinators were interviewed, two from the national level and three from the provinces.
- A total of 16 shelters were visited, and shelter managers and site coordinators were interviewed about the work of these shelters, including the services rendered and available facilities.
- A total of 17 victim support centres were also visited and their site coordinators interviewed.

The study utilised a qualitative approach which focussed on understanding the experiences and understanding of the individuals who were interviewed as sources of knowledge and insights into the implementation of the Victims Charter. In-depth interviews were carried out with relevant national, provincial and local officials from the NPA and the DSD. A review was also carried out of relevant reports and publications relating to the work of the two departments, to identify some of the key issues that emerged in the implementation of the VC. One important limitation of the study is that only officials were interviewed, and not the recipients of services provided by the support centres.

### 3. FINDINGS OF THE STUDY

#### 3.1. NPA Thuthuzela Care Centres and victim support services

The Thuthuzela ("comfort") Care Centres (TCCs) are a flagship programme of the NPA. The programme is led by the Sexual Offences and Community Affairs (SOCA) unit. The unit works in partnership with various departments and donors in response to the urgent need for an integrated strategy for the prevention of, response to, and support for victims of rape.

The TCCs are one-stop facilities that were introduced as part of South Africa's anti-rape strategy, with the aim of reducing secondary victimisation, improving conviction rates, and reducing the cycle time for the finalisation of cases.<sup>1</sup> Thuthuzela centres ensure that all services are coordinated from one point.

TCCs are staffed by an on-site coordinator, a nursing practitioner, a medical doctor, a social worker, a dedicated case manager, a victim assistance officer (VAO) and a police officer. All of them are on call for 24 hours a day. The role of the VAO is to explain to the survivor the procedures that need to be performed. The VAO helps survivors understand the examination and complaints filing procedures, including the signing of consent forms. The case manager makes sure that the dockets are kept in order, and site coordinators ensure that all services provided by the different role-players are

<sup>1</sup> National Prosecuting Authority Thuthuzela Care Centres brochure, p. 2

coordinated synergistically to prevent secondary victimisation.<sup>2</sup> Services are provided to all victims of crime, whether or not they would like to formalise their interaction with the criminal justice system. All victims are examined, counselled and provided with the necessary medical care, and all due processes are followed to ensure that evidence is collected properly in case of future court cases. The evidence is usually kept for three months, during which time victims can decide whether to take the case to court. While adult victims are allowed to decide whether to open cases, for children the law prescribes that a criminal case must be opened. TCCs render services to both men and women victims of sexual abuse, regardless of whether or not they want to report the case to the police.

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The study found that specific public awareness programmes, such as the Ndabezitha Izimbizo project, have been put in place to educate people about domestic violence. However it was difficult to

establish clarity on the availability of resources, especially budget allocations for the programme. None of the site coordinators could offer useful information regarding the amount of financial resources allocated to their centres, and even the national coordinator could not shed light on the total budget allocation for the programme. Some provincial coordinators indicated that additional funding was obtained from the Research Triangle Institute (RTI).<sup>3</sup> The funding was used to upgrade and expand rape care management services through the creation of TCCs over a three-year period.

In general the TCCs appear to have a tracking system, with all the victims who enter and exit the TCCs being recorded in a register. The NPA employs a case manager, who is a lawyer or prosecutor and sits in court and liaises constantly with the TCC. The case manager works closely with the site coordinator, who is also employed by the NPA. The case manager is responsible for screening dockets and identifying gaps to ensure watertight cases by the time of the court case. The manager also facilitates meetings between witnesses, the victim and the prosecutor dealing with the case in court.

### **3.2. Other victim support services and facilities**

The study found that the NPA does not play a direct role in terms of interventions to assist victims, especially those who become unemployed as a result of crime. Instead the NPA refers such cases to the relevant social partners, especially the DSD.

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<sup>2</sup> United States Agency for International Development Thuthuzela Care Centre fact sheet, <http://southafrica.usaid.gov>

<sup>3</sup> It is the implementing partner for the USAID Women's Justice and Empowerment Initiative (WJEI) in South Africa.

In addition, the NPA often writes letters to employers of victims requesting time off to allow victims to appear in court. In the case of school learners the NPA refers them for assistance (i.e. bursaries) to continue with their studies. The NPA also worked closely with the Department of Basic Education in a Thuthuzela Leadership Programme for Girls. There was collaboration with UNICEF and the SABC whereby girls were taught basic filming skills, which allowed them to film their own stories of sexual violence and domestic violence and how it impacts on them. Another joint programme with the Education Department (the Girls Education Movement or GEM) provides specialised support services to girls who have been victims of sexual abuse.

A number of significant findings resulted from the study. Firstly, informants pointed out that the NPA had developed a *watertight external coordination management system*. They also reported that internal coordination was fragmented, with officials seen to be “working in silos”. Some informants reported that it was difficult to know the work of other divisions. While it was clear that the NPA utilised local service providers and held regular monthly meetings to monitor their work, the study found that each province designed guidelines on implementation that fitted their unique circumstances, which could have contributed to the lack of effective coordination.

Nonetheless the guidelines serve to clarify the roles and responsibilities of service providers to enable effective monitoring and accountability. Secondly, coordination of services with other departments was conducted through service

level agreements. In some provinces, however, (e.g. Eastern Cape) implementation committees have been established. These committees comprise various stakeholders including local government.<sup>4</sup> In KwaZulu-Natal, none of the TCCs where interviews were conducted had implementation committees, meaning that everything depended on the site manager. This was cited as a major challenge.

Thirdly, it was found that the NPA had established separate waiting rooms for male and female victims of sexual abuse. Some female victims prefer not to be examined by male doctors. Separate ablution facilities exist for females and males, and the offenders are allocated separate facilities and entrances to keep the offenders and the victims apart.

Fourthly, it was found that different approaches were used by different centres to manage complaints from victims of sexual abuse. For instance informants at national level indicated that in the past, each centre had a suggestion or evaluation box. However difficulties were reported in encouraging rape victims to complete evaluation forms, especially when the violation had only just occurred.

With regard to training, the NPA has put in place a training programme for its personnel at national and provincial levels, focusing on legislation regulating sexual offences, to improve the provision of legal assistance to victims of crime. In addition, officials reported that the Victims Rights Week was an important campaign to raise

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<sup>4</sup> Interview with Eastern Cape Senior State Advocate, 04-02-2011

awareness about the rights of those affected by gender-based violence.

### 3.3. Department of Social Development: shelters for victims of crime

The Shelter Strategy was designed as a response to the gap that was identified in relation to the implementation of the Domestic Violence Act.<sup>5</sup>

The DSD is the lead agency in terms of establishing the shelters and coordinating the implementation of the strategy. The department is also the lead institution in terms of the implementation of the Victims Empowerment Programme.

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According to the national respondent, the Interdepartmental Management Team (IDMT) was an effective management structure, allowing each department in the cluster to report monthly and quarterly on programme implementation. Gaps

would be identified and addressed by relevant departments. The same structure was adopted at provincial level.

The department is currently funding community-based care programmes, "One-Stop Centres", safe homes and shelters that render services to victims of crime. This is done through inter-sectoral collaboration with civil society organisations.

There seems to be a common understanding among the coordinators that the central objective of the Victims Charter is the provision of services to the victims of crime, focusing on the seven rights as articulated in the Charter. There was also awareness that the Charter provides recourse for victims in the event of service providers failing to meet the standards laid out in the Charter. The DSD has developed a Shelter Strategy whose aim is to provide integrated, holistic and multi-disciplinary services to victims of domestic violence. The services include life skills and economic empowerment programmes that promote self-reliance, and psycho-social interventions (e.g. counselling) to facilitate healing for the victims.

The Victim Empowerment Programme (VEP) was intended to monitor shelters registered with the department, identify gaps, and provide services to meet the victims' needs. However there was confusion among some informants regarding the differences between the VEP and the Victims Charter, which could have affected their ability to maintain clear focus on the Charter.

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<sup>5</sup> RSA, Domestic Violence Act (Act no. 116 of 1998)

The provision of accommodation for victims is intended to be short-term, ranging from a week to six months, although sometimes this goes beyond six months. Even so, perceptions among some of the informants were that the shelters were more effective than overnight accommodation. The study revealed that some shelters do not provide services to males, for reasons ranging from never having received male clients before, to not having the capacity to do so. Yet some shelters (e.g. in KwaZulu-Natal) were able to provide accommodation not only to women and children, but also men. However it became increasingly clear that there were no shelters for male victims of violence, which prompted the department to develop a programme that targeted men.

It also became clear that the provision of services varied in different provinces. For instance, while non-governmental organisations (NGOs) play a role in providing services on behalf of the department in some provinces, in others (such as Northern Cape) this is not the case. In Gauteng one respondent reported that the department funds NGOs that promote the engagement of men and boys in the prevention of gender-based violence.

With regard to the funding of the VC, the national coordinator indicated that the DSD had a separate budget for the VEP, with financial allocations for the shelters, although this allocation was considered inconsistent. It was reported that shelters were expected to submit business plans which play a key role in securing funding. Some NGOs that provide shelter to victims of crime obtained additional funding from donors such as the national lottery, the European Union and the United Nations Office on Drugs and Crime (UNODC).

*In terms of monitoring of the shelters, it was found that the DSD was failing to adhere to regular audits as prescribed by policy. Audits are to be conducted on a quarterly basis. The department's tracking system was seen as weak and unable to track the use of resources utilised. In 2010 the national department did not have a system for tracking the number of victims handled. At provincial level, coordinators from some provinces (such as Northern Cape and Eastern Cape) claimed to have tracking systems, whereas others (such as Gauteng) reported having no systems in place.*

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The study found that the DSD utilised partnerships with other departments to meet the social needs of victims. For instance the DSD collaborated with the Department of Housing to provide housing for the victims of domestic violence, while the Department of Labour helped with employment opportunities for those exiting the shelters. In the Eastern Cape the department initiated small-scale income-generating projects for women who have been abused by their partners. However the effectiveness of these partnerships and the extent

of their impact in meeting the needs of the victims of crime remain unclear.

In terms of systems for dealing with complaints, the national office manages public complaints about service delivery through responses to parliamentary questions, while at provincial level different provinces use different approaches. For instance the department in the Eastern Cape established a Customer Care unit for victim complaints, while in the Northern Cape it was reported that complaints are investigated immediately and corrective measures taken where complaints prove to be valid. It was not clear though as to how the complaints are processed and finalised.

Informants from the DSD also felt that the annual Victims Rights Week was a valuable tool for *raising awareness, especially in rural communities, about the legal rights and policy responses to the needs of victims. It was seen as promoting a rights-based approach to victim services and programmes in South Africa.*

## 4. OVERALL POLICY IMPLICATIONS

The findings of the study revealed a greater emphasis on putting systems, processes and procedures in place and yet less on ensuring that such systems are applied and monitored effectively. From an organisational systems analysis, it can be argued that the NPA, through its TCCs, has developed vigorous systems, policies and programmes that have been cascaded from the national to the provincial and local government levels to address the needs of the victims of sexual violence. However, policy emphasis on setting up systems, structures and procedures appears to place minimal emphasis on the

voices of the identified beneficiaries, despite such beneficiaries being regarded as central to the criminal justice system in the Victims Charter. These voices are critical in determining the extent to which the TCCs meet the standards of service determined in the Charter.

Continued practical challenges in the implementation of the Victims' Charter indicate the need for greater monitoring and evaluation of current operations by the shelters and other service points. These challenges include poor coordination and lack of information on resources and levels of funding decisions, particularly at provincial level. Variations in provincial resource endowments imply ineffective national policy coordination. In particular for the DSD, inconsistencies in funding, reflected in variations in capacity to implement the Charter effectively across the various provinces, imply ineffective policy coordination by the department.

## 5. POLICY RECOMMENDATIONS

### 5.1. National Prosecuting Authority

- Greater clarity is necessary on levels of funding allocated to the TCCs to enable managers to manage available resources effectively for the provision of victim support programmes and services.
- It is recommended that the current funding model for TCCs be thoroughly reviewed with the aim of formulating clear guidelines to ensure common norms, standards and uniformity within the system of providing services to the victims.

- The NPA should expedite the training of all site-coordinators, especially all new appointments. This should place greater emphasis on a common understanding and approach in the implementation of the Victims Charter.
  - It is recommended that coordination at national level be strengthened and the management of current feedback mechanisms be improved to avoid the current informal approaches.
- Shelters rely heavily on NGOs for the provision of legal services and assistance to represent the victims in their court cases. The department should formalise relations with the NGOs. There is evidence to suggest that the work carried out by NGOs is undermined by officials who fail to acknowledge the valuable services rendered by the NGOs to the victims of crime.
  - The DSD needs to ensure that adequate and relevant skills development and training is provided to shelter personnel across the nine provinces.

## 5.2. Department of Social development

- In order to address the fragmentation in the funding model between those who own premises and those who rent, it is recommended that a funding policy be formulated to provide consistent guidelines and prescribe common norms and standards for funding of services provided to the victims.
- A policy is required to regulate and standardise the turnaround time for the disbursement of funds to the shelters.
- The DSD should ensure that the shelters have the necessary capacity in the form of trained personnel (i.e. full-time social workers) to improve their capacity to handle intensive workloads, particularly for traumatised victims who need intensive and therapeutic care. The use of part-time staff should be limited.





## MANDATE:

Section 187(1) of the Constitution of South Africa reads: "The Commission for Gender Equality must promote respect for gender equality and the protection, development and attainment of gender equality." The CGE is a catalyst for the attainment of gender equality. Section 187(2) grants the CGE "the power, as regulated by national legislation, necessary to perform its functions, including the power to monitor, investigate, research, educate, lobby, advise and report on issues concerning gender equality."

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