



THEMATIC DISCUSSION PAPER

**DISCRIMINATION AND VIOLENCE ON THE BASIS OF SEXUAL
ORIENTATION, GENDER IDENTITY AND EXPRESSION (SOGIE)
IN SOUTH AFRICA**

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1. INTRODUCTION

Globally, South Africa is celebrated for its progressive and transformative democracy installed by the 1996 Constitution founded on human dignity, the achievement of equality and the advancement of human rights and freedoms.¹ In relation to violence and discrimination based on sexual orientation, gender identity and expression (SOGIE-based violence and discrimination), South Africa's Constitution was indeed the first in the world to expressly prohibit discrimination on the basis of sexual orientation.² South Africa boasts a comprehensive and “liberal” policy framework for the promotion of equality and social justice, with generous protection for Lesbian, Gay, Bisexual, Transgender, Intersex and Queer³ (LGBTIQ) persons.

Notwithstanding this much celebrated constitutional, legislative and policy framework, serious violations of the rights to equality and dignity of LGBTIQ persons occur much too frequently in South Africa – on the basis of their real or perceived SOGIE;⁴ and the justice system in the country is unfortunately not known for its adequate response to these seemingly systematic challenges experienced by members of the LGBTIQ community.

As with other forms of violence and discrimination, SOGIE-based violence and discrimination tends to impact most severely on black, poor and rural LGBTIQ people due to race, class, level of formal education, geographical location and economic status.⁵

In 2010 the former Chairperson of the South African Human Rights Commission (Commission), Jody Kollapen, attributed violence directed against LGBTIQ persons to two factors: first, institutionalised prejudice deriving from the historical separation of people into categories with differential values;

¹Section 1 of the Constitution of the Republic of South Africa, 1996 (“the Constitution”).

²Peter Fabricius, “South Africa teeters, but avoids falling, in its high-wire act of protecting LGBTIQ rights without offending its African chums” Available at <https://issafrica.org/iss-today/just-how-serious-is-south-africa-about-gay-rights> Accessed 17 October 2017.

³The letter “Q” is added to the traditional “LGBTI” to indicate inclusion of a category of persons who may identify as being either gender, sexually and/or bodily diverse or non-conforming. The term “Queer” was originally a term used in a derogatory sense. Many LGBTIQ movements have embraced and reclaimed this word and gave it a rebirth. It can now be understood to describe a broad category of people who are non-conforming or diverse.

⁴Studies referred to in J A Nel and M Judge, “Exploring Homophobic Victimization in Gauteng, South Africa: Issues, Impacts and Responses” *Acta Criminologica* 21(3) 2008. In fact, in the African Region, violence and discrimination against persons on the basis of their real or imputed sexual orientation, gender identity and expression has received the attention of the African Commission on Human and Peoples’ Rights through its adoption of the Resolution 275 at the 55th Ordinary Session, on the Protection against Violence and other Human Rights Violations against Persons on the Basis of their Real or Imputed Sexual Orientation or Gender Identity.

⁵SAHRC 2017 Research Brief: Gender; A “socio-political” analysis would suggest it is impossible to explore violence against LGBTIQ people without factoring in race, class and poverty, discourses around culture and religion, which are arguably informed by “social panic” around sex, sexuality, sexual orientation and gender.

and second, the widespread problem of violence within South African society.⁶ Indeed over time SOGIE-based violence and discrimination had become institutionalised religion, culture and tradition.

In December 2017, the Commission in partnership with the Network of African National Human Rights Institutions (NANHRI) hosted a 2-day In-country meeting on SOGIE-based violence and discrimination where a range of challenges faced by the LGBTIQ community were discussed. One of the recommendations that emerged from this meeting was the need for the Commission to prepare a thematic discussion paper on the subject of violence and discrimination that is perpetrated on the basis of SOGIE.

A further recommendation was that a stakeholder engagement should be held to explore practical solutions to these challenges at the grassroots level of South African society. While much has been said about the challenges of discrimination and violence on the basis of SOGIE, not as much has been achieved in practice to ensure the full realization of the constitutionally guaranteed rights of LGBTIQ persons. While this paper does not purport to address all the challenges faced by LGBTIQ persons, it does however highlight identified challenged experienced by LGBTIQ persons in their interaction with the justice system. The paper (1) takes forward the recommendations of the NANHRI's In-country meeting and (2) advances ways in which issues of violence and discrimination in this context can be addressed - with a focus on the relationship between the justice system and the survivor⁷ of SOGIE-based violence and discrimination.

⁶See Jeremy Schaap, "Corrective Rape," ESPN, May 11, 2010, <http://espn.go.com/video/clip?id=5181871>. See also, the sentiments of former Justice Albie Sachs in *National Coalition of Gay and Lesbian Equality and Another v Minister of Justice and Others* (1998) (6) BCLR 726 at paras 127 and 128.

⁷Throughout this paper, the term 'survivor' is used instead of to 'victim'. This use of language is used to affirm the experiences of persons against whom SOGIE-based violence or discrimination was inflicted, it implies progression over stagnancy, and it serves as a term of empowerment. "Victim"-izing someone morphs one's identity into simply being a victim.

2. EMERGING AND SYSTEMATIC ISSUES ARISING

One does not need to search far for evidence that illustrates the disconnect between South Africa's policy and legislative framework on the one hand, and the actual lived experiences of LGBTIQ persons on the other. For instance, among the results of the 2015 Gauteng City-Region Observatory Quality of Life Survey,⁸ 14 percent of Gauteng residents support violence against members of the LGBTIQ community.⁹ This number is representative of some 1.26 million people in the province, and reportedly reflects an increase from 13 percent in 2013.¹⁰ This is perhaps evidenced by the high prevalence of physical and sexual attacks in townships against (particularly black) lesbians, carried out under the guise of trying to 'cure' lesbians of their sexual orientation (corrective rape).¹¹ Equally shocking, only 56 percent of respondents felt that gays and lesbians deserve equal rights. This is a reportedly significant drop compared to 2013, when 71 percent agreed with the same statement.¹²

One of the biggest gaps is between justice system on the one hand, and the LGBTIQ person's interaction with the system on the other hand. While this gap was identified earlier, the urgency of addressing it was identified by the National Task Team on Gender and Sexual Orientation-based Violence (NTT) with its establishment of a Rapid Response Team, comprised of representatives of the Department of Justice and Constitutional Development (DoJ&CD), National Prosecuting Authority (NPA), South African Police Service (SAPS) and civil society organisations (CSO). The NTT noted that the "deprioritisation, marginalisation, exclusion and targeted victimisation by those public institutions intended to provide services and protection ... for LGBTI persons ... lead to a lack of resources when crimes are committed and result in victims' fear to even report crimes."¹³

⁸Available at 2015 Gauteng City-Region Observatory Quality of Life Survey http://www.gcro.ac.za/media/redactor_files/GCRO_QoL_2015_Press_pack_low_res.pdf (Accessed 02 December).

⁹This study is limited to the Province of Gauteng and is used here only for illustrative purposes.

¹⁰2015 Gauteng City-Region Observatory Quality of Life Survey, Figure 9, page 2.

¹¹Nondumiso Tracy Hlongwane, Corrective rape as an anti-lesbian hate crime in South African law: A critique of the legal approach, Dissertation Submitted in Partial Fulfilment of the Degree Masters in Medical Law at the University of KwaZulu-Natal, College of Law And Management Studies, School of Law, Howard College Campus, 2016; Melanie Judge, violence against lesbians and (im)possibilities for identity and politics, A thesis submitted in fulfilment of the requirements for the degree of Doctor of Philosophy in the Department of Women's and Gender Studies at the University of the Western Cape, 2015.

¹²2015 Gauteng City-Region Observatory Quality of Life Survey, Figure 8, Page 6.

¹³National Intervention Strategy for Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Sector, Available at <http://www.justice.gov.za/vg/lgbti/NIS-LGBTIProgramme.pdf>.

This institutional violence is very often coupled with the infliction of secondary victimization of the survivors themselves. For instance, evidence was heard in *SAHRC v Qwelane*¹⁴ that after a black lesbian woman was raped, SAPS officials responded to her attempt to lay a charge by saying that lesbians are ‘boys’, and ‘boys cannot be raped’.

As evidenced by the recent Nare Mphela Equality Court case brought by the Commission, such victimisation takes place in all spaces including the school environment and as well as the judiciary.¹⁵ In this case, between 2013 and 2014, Nare, a transgender girl, was the victim of ongoing discrimination by the school and the principal. This created a hostile and intimidating environment surrounding her gender identity which, among other things, led to her failing her matriculation examinations in 2014. What is important for purposes of this discussion, is the fact that even after hearing evidence of Nare’s self-identification as a transgender girl, the presiding officer continued to note that “[t]he court will refer, where necessary, to [t]he Complainant in the male form.” Although appearing very subtle, this is nonetheless further victimisation of Nare and is evidence that much work still needs to be done to achieve substantive equality and dignity for LGBTIQ persons, especially in their interaction with the justice system at all levels.

As there is growing confrontation of racism (as evidenced by, among others, the H&M,¹⁶ Dove¹⁷ or Panny Sparrow¹⁸ incidents), it appears that increasing levels of homophobia are not being addressed by our society with the same rigour as racism. For instance, very little was reported in the mainstream media on the 2015 murder of Bobby Motlatla who was stabbed 39 times and raped for being gay; or the recent murder of Kagiso Ishmael Maema, a 25-year-old transgender woman from Rustenburg; or the brutal murder of Joey and Anisha van Niekerk who were raped and set on fire in December 2017. Even when incidents are publicised on social media, they are met with homophobic and hateful comments.

¹⁴*Qwelane v The South African Human Rights Commission (36314/13) [2014] ZAGPJHC 334.*

¹⁵*Nare Phillemon Mphela and Others v Limpopo Provincial Department of Education, in the Equality Court, Seshego, 2017.*

¹⁶<http://www.bbc.com/news/world-africa-42675665>

¹⁷<https://www.news24.com/SouthAfrica/News/racist-dove-ad-causes-outrage-on-social-media-20171008>

¹⁸<https://citizen.co.za/news/south-africa/927765/kzn-estate-agent-calls-black-people-monkeys/>

3. APPLICABLE LEGAL AND POLICY FRAMEWORK

A. INTERNATIONAL AND REGIONAL LEGAL FRAMEWORK

South Africa is a State party to the International Covenant on Civil and Political Rights (ICCPR), which, among others, prohibits discrimination on the basis of sex (but not sexual orientation). In the case of *Toonen v Australia*, the United Nations Human Rights Committee held that, even though the ICCPR did not expressly mention sexual orientation, the ICCPR was sufficiently broad to include sexual orientation as part of the anti-discrimination provisions of the ICCPR.¹⁹

At a regional level, the African human rights framework imposes obligations, through the African Charter on Human and Peoples' Rights (African Charter), to protect and ensure respect for a broad range of civil, political, economic, social, and cultural rights central to the experiences of members of the LGBTIQ community. Similar to the ICCPR the Charter does not expressly prohibit discrimination on the basis of sexual orientation.

However, the question of SOGIE-based violence has, at least recently, been on the African Commission's²⁰ agenda, evidenced through the adoption of Resolution 275,²¹ which calls on States to end all acts of violence and abuse, whether committed by State or non-State actors, including by enacting and effectively applying appropriate laws prohibiting and punishing *all* forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of survivors.

¹⁹*Toonen v Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994).

²⁰African Commission on Human and People's Rights.

²¹African Commission on Human and People's Rights, Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity.

B. SOUTH AFRICAN LEGAL AND POLICY FRAMEWORK

In the South African context, the point of departure must, of course, be the Constitution, which makes the achievement of equality a founding value of the Republic of South Africa; while Section 9 thereof, guarantees the right to equality and prohibits discrimination on the basis of sex, gender and sexual orientation respectively, and applies to the State and to private parties alike.

Various statutes were intended to give effect to the Constitutional right to equality, the most salient of which for purposes of this paper is the Equality Act,²² which is the national legislation mandated by Section 9(4) of the Constitution, and accordingly, enjoys special constitutional status. Significantly, the Act identifies the need to address systemic discrimination and is intended for 'eradication of social and economic inequalities'.²³ The Act gives effect to the letter and spirit of the Constitution by prohibiting unfair discrimination, protecting human dignity and providing measures to eradicate unfair discrimination, hate speech and harassment, particularly on the grounds of race, gender and disability.²⁴

While the prohibited grounds of discrimination in the Act resemble those listed in Section 9 of the Constitution, the Act seeks to provide additional grounds by including "any other ground" where discrimination on that ground causes or maintains systemic disadvantages, undermines human dignity, or adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination based on any traditional ground. This broad approach in the Act successfully acts as a catch-all approach, with the burden being placed on judicial officers to determine whether conduct not expressly listed as one of the prohibited grounds is, indeed, prohibited.

²²Promotion of and Prevention of Unfair Discrimination Act, 4 of 2000 ("PEPUDA or Equality Act").

²³See Preamble to the Equality Act.

²⁴SAHRC Research Brief on Race, 2017.

In 2017 the South African Police Service (SAPS) adopted a policy aimed at the respect, protection and promotion of the rights of LGBTIQ persons – the Standard Operation Procedure.²⁵ This policy, which applies to all SAPS members – particularly those who provide frontline services, mandates suitable, supportive services and skilled and sensitized personnel when dealing with members of the LGBTIQ community. The policy largely prohibits secondary victimisation, which is often experienced by LGBTIQ survivors from SAPS members, through the use of language, survivor-friendly interview rooms, confidentiality, behaviour etc. The policy further mandates SAPS station lectures to include content on LGBTIQ issues for all functional SAPS members.

²⁵The Standard Operating Procedure to Respect, Protect and Promote the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons, V002/2017.

4. KNOWLEDGE AND POLICY GAPS

A. SECONDARY VICTIMISATION WITHIN THE JUSTICE SYSTEM

While the legal and policy framework in respect of SOGIE-based violence and discrimination in South Africa is relatively inclusive and progressive, its existence on paper has thus far proven insufficient to reduce SOGIE-based violence and discrimination on the ground. LGBTIQ persons have to be empowered to know and use the laws and policies in order to protect themselves. A study has shown that victims of SOGIE violence and discrimination in South Africa often thought they had received sufficient service from health, police and justice service providers, until what they were in fact entitled to in terms of the law was explained to them. It is only then that participants realised that they had in fact received very poor service.²⁶

A typical example is access or use of the Equality Court systems - which were meant for the achievement of individual or collective redress in cases of prejudice-based violence and discrimination. There are reports of systematic and prohibitive barriers to effective access to Equality Courts with problems including untrained or insensitive personnel or lack of awareness about these courts.²⁷ Another example of this is the remarks of the presiding officer in the Nare Mphela case referenced above.

This lack of appreciation of the legal framework is also evident in those officials and agencies responsible for implementing and applying the policies and laws, often resulting in secondary victimisation (and even structural violence).²⁸

Often the obligation to provide basic information about rights and processes falls on the “first responders” or “[f]rontline service providers”, who are, for instance, police officers in police stations, clerks of Equality Courts, health care providers or officials at other community or social service centers.

²⁶Bornman S, Dey K, Meltz R, Rangasami J, Williams J (2013) Protecting Survivors of Sexual Offences - The Legal Obligations of the State With Regard to Sexual Offences in South Africa

²⁷Reports were heard at the NANHRI In-Country Meeting of SOGIE-based violence and Discrimination, held in Rosebank on 29 December 2017 and hosted by the Commission.

²⁸Parenzee, P (2014). A guiding document to the Shukumisa Dossier: A resource on available documents pertaining to the formulation and implementation of legislation and related policies pertaining to Sexual Offences in South Africa: 2003 – 2014. The Shukumisa Campaign; Vetten, L (2014) Domestic violence in South Africa, Policy Brief 71. The Institute for Security Studies: Pretoria.

These officials have the crucial responsibility to provide accurate information in a language and manner that the survivor in question understands, and they also serve as a survivor's first impression of the justice and or social service system.²⁹

It is most often the interaction with these frontline service providers that gives rise to secondary victimisation — particularly in the case of LGBTIQ survivors, who face the personal ignorance and prejudice of officials in trying to access government and social services to which the legislative and policy framework entitle them.³⁰

It was reported that by March 2015 the SAPS had established survivor friendly rooms at 897 of their 1 138 police stations across the country. In 2015 monitoring by the Civilian Secretariat for Police found that not all of these rooms were functional or resourced. This is despite the fact that the SAPS reported to parliament that 100 percent of its police stations provide “survivor friendly services”.³¹

B. THE JUSTICE SYSTEM AND SURVIVORS OF SOGIE-BASED VIOLENCE AND DISCRIMINATION

While many survivors of SOGIE-based violence and discrimination do not understand and as a result cannot effectively navigate the justice system, many often seek legal assistance and/or representation. Since private legal representation is prohibitively expensive, particularly for black and/or disadvantaged survivors, a disproportionately low number of such survivors approach the Commission or civil society organisations (CSOs) for redress, while only a small minority are able to afford private legal representation. A disjuncture is created as the cost of litigation is prohibitive for the poor who as a result are unable to enjoy their constitutionally guaranteed rights.

The limited understanding of legal processes by South Africans remains an impediment to full comprehension of individual rights and how these can be realised.

²⁹Thematic Report on Violence against Women and LGBTIQ Persons in South Africa, Submission to the UN Human Rights Committee in response to the Initial Report by South Africa under the International Covenant on Civil and Political Rights at the 116th session of the Human Rights Committee (Geneva, March 2016) (hereafter Thematic Report on Violence against Women and LGBTIQ Persons in South Africa) Available at http://tbinternet.ohchr.org/Treaties/C-CPR/Shared%20Documents/ZAF/INT_CCPR_CSS_ZAF_23069_E.pdf page 6.

³⁰Thematic Report on Violence against Women and LGBTI Persons in South Africa page 7.

³¹In a briefing of the parliamentary Portfolio Committee on Police, on 18 August 2015, available at <http://pmgas-sets.s3-website-eu-west-1.amazonaws.com/150818saps.pdf>

Victims of SOGIE-based violence and discrimination are as a result unable to understand their rights, including what they are entitled to especially in terms of service delivery or possible recourse in cases where their rights are not respected.

There is a need for a legal aid system (similar to the existing legal aid as established by the Legal Aid South Africa Act 39 of 2014) for survivors of SOGIE-based violence and discrimination. In theory, access to free legal advice and representation for SOGIE-based violence and discrimination is possible for everyone through the government system of legal aid, managed by the Legal Aid Board.³² However, the reality is that access to a legal aid representative is only automatically and unconditionally available to those who find themselves in conflict with the law (perpetrators and accused persons) and not to those who are survivors and complainants of discrimination and violence cases.³³

As evidenced by the Legal Aid South Africa Annual Report 2016/17³⁴ the bulk of the resources of Legal Aid South Africa is allocated to representation in criminal courts for those who find themselves in conflict with the law – predominantly cis-gendered men. Thus it is the latter who benefit most from the legal aid system at the expense of women and other members of the LGBTIQ community, who are more often survivors of gender-based violence and/or SOGIE-based violence and discrimination. Thus, the relevant legislation must be amended to require the Legal Aid Board to make legal representation available to survivors in certain instances.

C. THE NEED FOR DISAGGREGATED DATA

In recent years significant efforts have been made by civil society³⁵ and the Commission³⁶ to call for a reform in the manner in which data about sexual and other violence is collected and reported to the public. In 2017, the Department of Justice in partnership with European Union begun conducting a study of methods of data collection on incidents of racism, racial discrimination, xenophobia and related intolerance.

³²As established by the Legal Aid South Africa Act 39 of 2014.

³³Thematic Report on Violence against Women and LGBTI Persons in South Africa.

³⁴Available at http://www.legal-aid.co.za/wp-content/uploads/2017/09/ANR-Legal-Aid-SA_2017.pdf (Accessed 29 November 2017).

³⁵In November 2014, and again in October 2015; See also Thematic Report on Violence against Women and LGBTI Persons in South Africa page 8.

The study is aimed at providing technical assistance to the Department, and to analyse the existing data sources and methods of data collection on incidents of racism, racial discrimination, xenophobia and related intolerance in the public and private sector. This need for disaggregated data was discussed in 2016 at the Commission and Department of Justice's First Regional African Seminar on Finding Practical Solutions for Addressing Violence and Discrimination Based on Sexual Orientation, Gender Identity and Expression in Johannesburg, South Africa from 3rd to 5th March 2016. It was identified earlier, and again at this dialogue, that there is a need for adequate resourcing for the development of a system which captures and stores disaggregated data relating to SOGIE-based discrimination and violence, as well as training of officials.³⁷

The SAPS routinely announces figures of reported crimes on an annual basis. For instance, it was reported that April 2014 to March 2015 a national total of 53 617 sexual offences were reported.³⁸ However, these figure remains largely unhelpful in the absence of disaggregation in respect of Gender, Offence and Prejudice-motivated crimes.³⁹

For instance, in relation to Gender, it is not possible to tell from the lump sum figure of reported sexual offences what proportion of survivors were male (or male identified) or female (or female identified), and children, or whether the incident was motivated by hate or prejudice towards to the LGBTIQ community. This kind of disaggregated data should be the basis and should inform policy makers, government, CSO's and state institutions' interventions here. In the absence of disaggregated data, it becomes impossible to gain a comprehensive appreciation of the nature and scope of violence against LGBTIQ persons in South Africa. Moreover, it becomes difficult, if not impossible, to develop targeted and informed interventions according to real experiences of LGBTIQ persons.⁴⁰

Further, there is a need for a shift in focus, away from the number of reported incidents, and towards the removal of barriers to reporting gender and/or SOGIE-based violence.⁴¹

³⁶2017 Research brief on race and equality in South Africa, page 22.

³⁷Ekurhuleni Declaration of 5 March 2016 on Practical Solutions on Ending Violence and Discrimination against Persons Based on Sexual Orientation and Gender Identity and Expression

³⁸South African national crime statistics, available at http://www.saps.gov.za/resource_centre/publications/statistics/crimestats/2015/crime_stats.php

³⁹Thematic Report on Violence against Women and LGBTI Persons in South Africa page 8.

⁴⁰Thorpe, J (2014), Financial Year Estimates for Spending on Gender-Based Violence by the South African Government at 4.

⁴¹Thematic Report on Violence against Women and LGBTI Persons in South Africa page 9.

To this end the Police Minister has adopted the Policy on Reducing Barriers to the Reporting of Gender Based and Domestic Violence. This policy addresses “service delivery barriers faced by vulnerable groups, including LGBTIQ persons, and persons with disabilities. It has three strategic objectives: to establish uniform norms, standards and mechanisms for the co-ordination and implementation of the [Sexual Offences Act] of 2007; to develop and strengthen coordinated services; to provide resources for the effective implementation of [Sexual Offences Act] of 2007 and its National Policy Framework.” Although informed by a binary interpretation of gender, this policy is an overdue step in the right direction. Like with many others of its kind, serious investments must be made into its implementation and monitoring of such implementation.

5. CONCLUSIONS AND RECOMMENDATIONS

What seems clear is that even though some gaps exist, the legal and policy framework in respect of SOGIE-based violence and discrimination in South Africa is fairly inclusive and progressive. However, the policies and laws still need to be implemented consistently in order to address SOGIE-based violence and discrimination – particularly within the justice system. The following recommendations are therefore advanced by the Commission in this respect:

(1) The Department of Justice and Constitutional Development at all levels must continue to make targeted efforts to make information about the substantive content of the law available in an accessible and inclusive manner, which takes into account the social realities of South African life where people often have low levels of education, inadequate means to access legal assistance, as well as language barriers. Information must be provided in plain language and should be easily accessible in police stations, government offices, clinics, schools and other public places.

(2) The Department of Education, the Department of Arts and Culture and the Department of Justice must encourage the use of Equality Courts in local communities. All efforts must be geared towards popularisation of these courts, with a focus on rural areas and townships.

(3) The South African Police Service and Statistics South Africa must ensure that data collection relating to crimes motivated by one's actual or imputed SOGIE is accurate and disaggregated in respect of Gender, Offence and Prejudice-motivated crimes. The data should be made accessible to relevant entities including the Commission.

(4) The Department of Justice and Constitutional Development, working with the National Task Team and Civil Society Organisations must implement national training programs for all public service providers and border control officials including SAPS, legal professionals, NPA and the judiciary in order to sensitise them to the rights and needs of all survivors of crime, discrimination and violence on the basis of SOGIE. This includes the development of comprehensive education and sensitisation, including on education related to human rights, SOGIE for purposes of training SAPS and those involved in the justice system, including clerks, police, prosecutors and the judiciary.

(5) The relevant legislation must be amended to require the Legal Aid Board to make legal representation available to survivors in certain instances.

(6) The NTT must take the lead in strengthening inter-departmental and inter-sectoral collaboration for an effective approach to SOGIE-based violence and discrimination experienced by survivors in the justice system, and generally in all forms.



