

The Special Rapporteur (SR) on violence against women visited South Africa from 11 to 18 October 1996. The report of her visit (E/CN.4/1997/47/Add.3) notes that the main purpose of the visit was to study the issue of rape in the community in light of the reportedly high incidence of this form of violence against women in South Africa. A secondary purpose was to study the situation of violence against women in the post-apartheid era. The report includes a section providing general background as well as commentaries on the criminal justice system, the legacy of apartheid and the pattern of rape, the international and national legal frameworks, government policies and strategies, the police, the district surgeon, the judiciary, the problem of disparity, and community action.

In considering the framework for and protection of rights in South Africa, the SR stated that: there is a general distrust by the public of the criminal justice system, which is still closely associated with the former apartheid regime; the criminal justice system is seen as an integral part of the state violence that was directed against the black population during the previous regime; the close identification of the criminal justice machinery with the system of political and racial oppression has contributed greatly to the rate of criminal violence in society; this perception of the system may be the greatest stumbling block to the eradication of criminal violence and the reporting, prosecution and punishment of crime; and, there is a need to completely overhaul the criminal justice apparatus, retrain its members and create a more representative service if violence in general, and violence against women in particular, is to be contained.

The report considers briefly two components of violence in South Africa. The first is political violence in which there is evidence that women have been targeted for rape for political motives. This form of violence relates to violence by the state against citizens, intercommunal violence between and within different political parties, and violence among different ethnic groups and their leadership. The second is clandestine professional violence that is often related to large-scale organized criminal activities and involves violence against women, such as "taxi killings" (related to the minimal public transport infrastructure in South Africa) and "jack rolling". The latter is characterized as basically gang rape that is viewed as a leisure activity for men, like playing cards or alcohol. The report notes that for women's organizations, "jack rolling" typifies the 'macho' approach inherent in South African society and the social legitimation and tolerance of violence against women. Following on this, the report refers to points raised in meetings during the visit, including that: society is viewed as patriarchal and violent without a human rights culture; people frequently do not know how to gain access to the criminal justice system, especially for reporting purposes; and, women victims of violence are often stigmatized or blamed instead of supported.

In terms of the changes that have been implemented in South Africa, the report considers and provides commentary on a number of them, including: the establishment of the Human Rights Commission in 1995 and its intention to cooperate closely with the South African Commission on the Status of Women and the respective "gender-desks" in all ministries; establishment of the National Network of Women

against Violence, with the primary objective of mainstreaming gender issues within the government; establishment, within the overall reform measures related to the police, of community police forums to enhance dialogue between police and their communities and to combat crime through joint action and community vigilance; provision of training and specialization for police officers with regard to sexual violence and rape; compulsory basic training for police in which police are taught to treat those against whom violence has been committed as "survivors" rather than "victims"; provision of training to police on sexual offences investigation techniques; provision by police of rape crime kits to district surgeons (forensic medical experts) who often have not received training in how to examine and treat victims of sexual violence or rape; and establishment of specialized courts in some areas to deal with rape and sexual violence.

In the section of the report dealing with conclusions and recommendations, the Special Rapporteur states that, in addition to the inherently violent character of South African society, the status, real and perceived, of South African women contributes to their victimization through rape and sexual violence. It is further stated that in rural and more remote areas, customary laws still treat women as minors and deny them the independence they need if violence against women is to be combatted effectively.

The report acknowledges that the measures undertaken by the government to eliminate violence against women have been in place for only a short time and that their real or potential effectiveness cannot be fully evaluated. The recommendations in the report are made with this in mind and include that:

- ▶ South Africa ratify all international human rights instruments to which it is a signatory;
- ▶ the government accede to both Optional Protocols to the Covenant on Civil and Political Rights and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- ▶ the government redefine and develop the criminal justice system to reflect the needs of the community;
- ▶ the number of female officers in police services be increased;
- ▶ police community forums be used to raise topics such as violence against women and rape;
- ▶ the government consider amending the Penal Code to ensure that definitions of sexual violence are broad enough to cover all aspects of rape and not be limited to "sexual intercourse" and, further, that the requirement of "absence of consent" does not further victimize the rape victim;
- ▶ rules of evidence related to sexual violence be amended and that a victim's past sexual conduct not be considered relevant unless directly linked to the crime in question;
- ▶ the government ensure provisions in the Penal Code to protect the identity of rape victims and maintain their privacy during investigations and prosecutions;
- ▶ specialized programmes for awareness-raising and training be given to members of the criminal justice system with regard to gender issues and special problems related to investigating and prosecuting cases of violence against women;