



DEDICATED COURTS TO HELP FIGHT SEXUAL OFFENCES

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For the past few months, the issue about the re-establishment Sexual Offences Courts (SOCs) has made headlines in and around the country, following cases of sexual offences on women and children.

The Department of Justice and Constitutional Development (DOJ&CD) is working earnestly to reinstate Sexual Offences Courts in the country. Ms Sarah Mosupye, Senior Legal Administration Officer for the Specialised Court Services said currently, sexual offence cases are heard in different courts countrywide and the SOCs will specifically deal will sexual offences cases only.

During Justice Crime Prevention and Security (JCPS) cluster media briefing recently, Justice and Constitutional Development Minister Jeff Radebe emphasised that the cluster has implemented various measures to ensure that sexual offence cases are dealt with effectively and finalised in time while making sure that victims receive the necessary support. “The re-establishment of sexual offences courts will supplement the work done by the cluster to ensure that cases are handled successfully,” said Minister Radebe.

The cluster has raised its concerns about reports of sexual and domestic violence

which continues to undermine the rights of vulnerable people, particularly women and children. “What is even more concerning is that these kinds of crimes happen in our homes and are committed by people who are known to the victims,” said Mr Radebe.

To speed up the process of reinstating SOCs, the department has already started with the process of identifying courts where SOCs will be rolled out. To fully investigate the process of the re-establishment of these courts in June 2012, a Ministerial Advisory Task Team on the Adjudication of Sexual Offences Matters (MATTSO) was set up. Its mandate is



to investigate the viability of re-introducing SOCs in order to advise the ministry on the appropriate action to take.

In December 2012, the task team submitted the revised report to the minister on the re-establishment of sexual offences courts. Their research study recommended for two (2) models to manage the cases, a pure sexual offences model that will preside only over sexual offences cases on their court roll. The other presents a hybrid model that will preside over both sexual offences and other criminal related matters. The common features of similarity between the two models will be capacitated with the blue-print human, physical resources whilst providing accessible and specialised services.

Task team findings indicated that there are sufficient grounds for the re-establishment of SOCs and that these courts are in line with the ethos of the objects of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, which seek to afford complainants of sexual offences the maximum and least traumatising protection.

Minister Radebe urged community members to support the work done by the JCPS Cluster by reporting all sexual offences cases to relevant authorities. "We urge community members to come forward and report these crimes so that perpetrators may be brought to book," he appealed.

HISTORY OF SOCS IN SOUTH AFRICA

The concept of SOCs was first introduced in South Africa at the Wynberg Regional Court, Cape Town in 1993. This pilot project was aimed at responding to and preventing the soaring figures of rape cases reported in the area at the time. The Wynberg Regional Court project, evaluated in 1997 by the Rape Crisis Cape Town and the African Gender Institute at the University of Cape Town, was found to be partially successful in establishing integration and teamwork among different role-players dealing with sexual offences. It was further instrumental in reducing victim

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trauma and in improving reporting and conviction rates. This was regarded as an impressive achievement after only four (4) years of operation.

Following the success of the Wynberg project in 1999, another sexual offence court was established in Bloemfontein and in 2000, these courts were available in Durban, Parow, Grahamstown, Mdantsane and Soweto. By the end of 2005, there were 74 SOCs countrywide.

ISSUES THAT LED TO THE DECLINE OF SOCS

During an evaluation conducted by the Institute for Democracy in South Africa (IDASA) in 2001, it was discovered that SOCs have been overloaded with cases and it was recommended that debriefing and counselling services be provided to court officials dealing with such cases at these courts. The study also found that lack of permanent magistrates had a negative impact on the efficiency and delivery of services at the courts.

Some of the issues included equipment and capacitation of SOCs and mainstream courts, locations of these courts and cash flow management policy.

When the former Minister, Ms Brigitte Mabandla delivered her budget speech in May 2005, she confirmed the success of these courts but also raised concerns that specialised courts were better resourced than the mainstream courts.

The fact that sexual offences courts were better resourced than other courts was seen as a serious violation of the constitutional rights of other victims of crimes to equal protection and benefit of the law.

According to Ms Mosupye, another reason was the physical location of these courts,

as most of the regional courts, dedicated to deal with sexual offence cases were placed in large centres, in urban areas, and specially trained prosecutors were usually only located at these centres.

These centres were the only courts that were equipped with CCTV, waiting rooms and consultation rooms, conducive to the needs of victims of sexual offences. Some victims had to travel long distances to have their matters heard in a SOCs rather than a normal regional court.

The magistracy indicated that in order to ensure equal access to justice for all, cases should be heard in areas closer to where these victims and families were based as opposed to hearing these cases only at certain larger centres.

Case Flow Management Policy for lower courts also contributed to the decline of these courts. This policy was aimed at reducing case backlogs and the establishment of formalised processes that will ensure optimal utilisation of court hours. The Draft Regional Court Protocol also set out processes to ensure the effective screening of dockets before trial. Despite the fact that both Case Flow Management Policy and Draft Regional Court Protocol were aimed to speed up the finalisation of cases, neither of them recognised the need to prioritise vulnerable victims such as children and victims of sexual offences.

The former minister thus required a review to determine the impact, effectiveness and sustainability of specialised courts and a revision of the terms of reference for the establishment of SOCs. Two of the main achievements of the SOCs were an increase in conviction rates and a decrease in turnaround time from the date of report to arrest until the finalisation of the case. ■