

Masiphephe Network

POLICY BRIEF

SEXUAL REPRODUCTIVE HEALTH AND RIGHTS AND GENDER-BASED VIOLENCE



SOUTH AFRICA

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Fact Box

- High levels of gender-based, and intimate partner violence affect South African society, denying many women, including adolescents, the full enjoyment and attainment of sexual and reproductive health and rights (SRHR) services.
- Adolescent girls and young women (AGYW) exhibit a high incidence of HIV and high levels of unmet need for contraception (around 30%).
- Women who are not in a formal union such as unmarried or widowed women, often face stigma when accessing sexual health services.
- In developing countries, more than 200 million women want to avoid pregnancy but do not have access to modern contraception.

Synopsis

Sexual and reproductive health and rights (SRHR) are fundamental to health and well-being, gender equality, democracy, peace and security, and sustainable development. SRHR is grounded in the right and the ability of all individuals to decide over their own bodies and to live healthy and productive lives. South Africa has made progress towards strengthening sexual and reproductive health and rights. However, despite this progress, gender-based violence (GBV), still remains unacceptably high in the country. It is a barrier to the full enjoyment of human rights, and it impacts women's well-being in their diversity in the country. Sexually transmitted diseases, GBV, including sexual violence, unintended pregnancies and childbearing can profoundly alter a person's life, their health care needs, educational outcomes, economic opportunities and participation in society. Sexual violence, such as coerced or forced sexual encounters, increases the occurrence of adverse reproductive health outcomes such as unplanned pregnancy, the risk of HIV and other sexually transmitted diseases. Therefore, it is necessary to work towards enabling all people to exercise their SRHR through access to information, services and justice. Furthermore, laws, policies and strategic plans should guide towards achieving SRHR for all.

This policy brief seeks to strengthen efforts by the government, civil society, policy makers, the private sector, as well as community members, towards promoting SRHR. This paper examines the state of SRHR and GBV and identifies various laws and policies that promote SRHR in South Africa. The paper also highlights challenges and gaps in access to SRHR and curbing GBV and provides recommendations.

Overview

SRHR DEFINITION According to the Guttmacher Institute, sexual and reproductive health is a state of physical, emotional, mental and social well-being in relation to all aspects of sexuality and reproduction, not merely the absence of disease, dysfunction or infirmity.

Components of SRHR

Sexual health encompasses aspects of reproductive health, such as contraception, fertility, and choice on termination of pregnancy, and includes many aspects of sexual health — including reproductive tract infections, sexual pleasure or dysfunction, and the health consequences of violence, which may not be directly associated with reproduction.

The multiple components of SRHR, promote women’s wellbeing and rights to a life free from discrimination and violence. Gender-based violence (GBV) is a matter closely related to SRHR and affects women globally on a daily basis. The prevalence of teenage pregnancies in South Africa is of concern as further indication of the



inability of women to access contraceptives of their choice, thus infringing their right to sexual and reproductive health care. The inability of women and girls to access safe sexual and reproductive health care has resulted in many women experiencing violence and discrimination in the health care system.

In 2017, StatsSA reported that the age fertility rate for teenagers was 71 per 1 000 women aged 15 – 19, indicating minimal change from 1998. While 58.3 per cent of women use some form of contraceptive, 18 per cent of women continue to have an unmet family planning need.¹ It has also been reported that despite the Termination of Pregnancy Act 92 of 1996, which legalises abortions in South Africa, illegal abortions are still widespread because of the social stigma associated therewith, resulting in health care workers refusing to perform abortions on the basis of their conscience. Consequently, an estimated 26 per cent of maternal deaths in the country are the result of botched abortions.²

South Africa is overwhelmed with HIV infections and remains the global epicentre of the HIV pandemic. Moreover, the 2016 South Africa Demographic and Health Survey (SADHS) revealed that most women under the age of 22 years had unwanted pregnancies, with the prevalence of unintended pregnancies in South Africa at 63%. This shows the heterogeneity in SRHR outcomes among young women in South Africa.

Legal Framework

International legislation	Continental and Regional Legislation	National Policies and Guidelines
South Africa has progressive legislation that enables people to access various sexual- and reproductive-health services. On an international level, South Africa is a signatory to the Convention on the	South Africa is part of the African Charter, that has Article 18 which goes further to provide for the elimination of every form of discrimination against women and ensure the protection of the rights of	SRHR is embedded in the South African Constitution. Section 27 guarantees everyone the right to access health care services, including reproductive health care, while section 12 of the Constitution states that

¹ STATSSA. (15 May 2017) “South Africa Demographic and Health Survey”. <http://www.statssa.gov.za/?p=9836> [Accessed March 28 2023]

² DAILY MAVERICK. (13 August 2017) Health-e: Health workers are undermining women’s right to abortion. <https://www.dailymaverick.co.za/article/2017-08-13-health-e-health-workers-are-undermining-womens-right-to-abortion/> [Accessed March 28 2023]

International legislation	Continental and Regional Legislation	National Policies and Guidelines
Elimination of Discrimination against Women (CEDAW), which provides for the elimination of discrimination against women in the field of health care and provides for access to health care services, including those related to family planning (Article 12 and 14). ³	women as stipulated in international declarations and conventions, ⁴ while Article 14 of the Maputo Protocol guarantees women the right to health, including obliging the State to ensure that the sexual and reproductive health rights of women are respected and protected. As per the Maputo Protocol, reproductive health rights include: the rights to control fertility; to decide whether to have children; to choose any method of contraception; to be informed of one's health status and that of one's partner; and to have family planning education. ⁵	everyone has the right to bodily and psychological integrity, including the right to make decisions concerning reproduction, and security in and control over their body. ⁶ These protections afforded to women in the Constitution are in line with CEDAW. The National Clinical Guideline for Contraception of 2019 also provides that every person has access to modern methods of contraception.

Despite these policies and undertakings, women in South Africa continue to be denied the right to control their bodies and get access to sexual and reproductive health care, and experience various forms of physical and structural violence as a result.⁷

Other Policies and Guidelines

1. National Guideline for Implementation of Choice on Termination of Pregnancy Act 92 of 1996, National Clinical Guideline for Safe Conception and Infertility (2019)
2. Sexually Transmitted Infections Management Guidelines (2015)
3. National Guideline on the Management of Post-Exposure Prophylaxis (PEP) in Occupational and Non-Occupational Exposures (2019)
4. The South African National LGBTI HIV Plan, 2017-2022
5. The South African National Sex Worker HIV Plan, 2016-2019
6. National Breast Cancer Prevention and Control Policy
7. The Global Family Planning 2020 framework
8. Minimum Standards for the Integration of HIV and Sexual and Reproductive Health in the SADC Region
9. SADC Protocol on Health, Article 16
10. Sexual and Reproductive Health Strategy for the SADC Region 2006-2015

³ CEDAW Committee General Recommendation No. 19 (1992). MORE DETAILS?

⁴ The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2013 – MORE DETAILS?

⁵ Maputo Protocol, Article 14(1) (a-g). Available on:

<https://www.sahrc.org.za/home/21/files/SAHRC%20GBV%20Research%20Brief%20Publication.pdf> CHECK URL – DOESN'T TAKE YOU TO MAPUTO PROTOCOL

⁶ The Constitution of the Republic of South Africa. (1996) Sections 9, 10, 11.

⁷ The South African National Aids Council (SANAC). (2016) *South African National Sex Worker HIV plan, 2016 – 2019*. Pretoria.

Challenges in accessing SRHR

Confidentiality and privacy: lack of privacy (lack of a space away from adults) in some services, or also breaches of confidentiality by some service providers - for example, disclosing to parents the content of the conversation.

Operating hours and/or waiting times: operating hours and days need to be adapted to ensure that service provision is convenient for young people and aligns with school attendance.

Adolescent and youth's fear of judgement: the attitudes of service providers may discourage young people (especially adolescents and young women) from attending the clinics. Youth sex workers, as well as lesbians, gays, bisexuals, transgender and intersex individuals may experience additional layers of barriers to accessing SRH care.

Social norms and perceptions of young people's agency and rights to SRHR: linked to the above, perceptions of the role and agency of young people may affect the provision of services. Depending on their cultural and societal background, young people might be expected to abstain from sex until they are married; unequal gender norms, allocate more power to boys than girls.

Recommendations

- Recognise in policy, practice, and funding, the central role SRHR play in health equity, human rights, and development while ensuring the inclusion of these rights in all national and sub-national policies. (Most relevant for the government)
- Provide universal access to sexual and reproductive healthcare services and rights
- Stop using criminal law to control people's sexual health and rights and adopt appropriate laws and policies that respect, protect, and fulfill sexual health and rights for all, including adolescents and youth.
- Ensure that adequate legal systems upholding national policies focused on sexual health and rights are in place and establish a high-level governmental department for monitoring and accountability.
- Fund and support civil society to educate girls, women, young people, and marginalised groups about their sexual rights.
- Establish comprehensive sexuality education in schools and informal learning environments in accordance with recent international technical guidance from UNESCO, UNAIDS, UNFPA, UNICEF, UN Women, and the WHO.
- Enforce the integration of sexual health and rights frameworks within all programmes, emphasising the importance of accessible, stigma-free services for all, including marginalised groups, people living with disabilities, LGBTQIA+ communities, youth, and adolescents.
- Ensure abortion is safe, legal, accessible, and affordable and that post-abortion care is available.
- Engage men and boys in sexual health and rights initiatives.

Conclusion

In order to respect, protect, and fulfill sexual health and rights for all, the South African government needs to first recognise, in policy, practice, and resource allocation, the central

role sexual health and rights play in health equity, human rights, and development. This means ensuring that adequate legal systems are in place upholding national policies focused on sexual health and rights and establishing a high-level governmental department for monitoring and accountability. Within the national health sector, comprehensive sexuality programmes must be introduced where they do not exist, and all sexuality education programmes should follow the recent international technical guidance from UNESCO, UNAIDS, UNFPA, UNICEF, UN Women, and the WHO. In order to power progress for all, many different constituents must work together, including the government, civil society, academia, media, affected populations, and the private sector.

DISCLAIMER

This policy brief is for the “Strengthening Local Governance to Improve Gender Based Violence” Project also known as the “Masiphephe Network” (“Let’s Be Safe”). The project is funded by the United States Agency for International Development (USAID), through its Democracy, Human Rights and Governance (DRG) unit, and led by the Centre for Communication Impact (CCI). The Masiphephe Network community-based gender-based violence (GBV) prevention and response partners across three provinces in South Africa, believe that GBV is the grave consequence of complex social and structural problems. Our programme encourages inclusive GBV interventions through strategic policy advocacy, community-led collaborative supportive multi-sectoral partnerships, building awareness and promoting behaviour change to shift GBV social norms. Our views are informed by community engagements and recommendations. The contents of this policy brief are the responsibility of CCI and do not necessarily reflect the views of USAID.

BREAK THE SILENCE, CALL 0800 428 428 (GBV COMMAND CENTRE) TO REPORT AND GET GBV SUPPORT.

Masiphephe Network Implementing Partners

ORGANISATION	IMPLEMENTATION SITE/ LOCATION	CONTACT #
CCI	Pretoria, Gauteng	012 366 9300
GHJRU	University of Cape Town	021 406 6023
Agisanang Domestic Abuse Prevention and Training (ADAPT)	City of Johannesburg Region E, Gauteng	011 786 6608
Sonke Gender Justice (Sonke)	City of Johannesburg Region D, Gauteng	011 339 3589
Ethembeni Crisis Care Centre (ECCC)	eThekwini West, KwaZulu Natal	031 704 6860
Gugu Dlamini Foundation	eThekwini INK Area, KwaZulu Natal	031 292 2852
Project Support Association Southern Africa (PSASA)	Emalahleni Local Municipality and City of Mbombela	013 752 5624

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