

UNODC Launches Pilot Project on Non-custodial Measures for Women in Conflict with the Law at Athlone Magistrate's Court

On the 30 November 2021, the Callas Foundation, in partnership with the United Nations Office on Drugs and Crime, launched a pilot project on non-custodial measures for women in conflict with the law (WICL) at Athlone, Western Cape, South Africa. The launch coincided with the 16 Days of Activism for No Violence against Women and Children. The South African theme being, moving from Awareness to Accountability.

South Africa ranks 128 out of 161 countries (with 161 being the least peaceful) in the Global Peace Index 2021¹ and has some of the highest murder rates found globally outside of a war zone. Violence has been part of the South African social context for decades, rooted in historical aspects and underpinned by high levels of inequality and poverty, racism, unequal gender power relations, and hostility to sexual and gender diversity.

It is particularly significant that female offenders who are incarcerated tend to have unique pathways into incarceration. Viewed from a nuanced perspective, this reveals a pattern of victimhood which clearly indicate that female offenders are, in most cases, not suited for incarceration, and often these individuals are victims of trafficking, exploitation by criminal networks and gender-based violence, or use drugs for personal consumption.

In essence, the *aim of the pilot project* is to explore the intersection between gender-based violence (GBV) and women who find themselves in conflict with the law (WICL), also taking into consideration how GBV may escalate both women's pathways to imprisonment and their social reintegration. The *methodology* used in the pilot project involves the implementation of a multisectoral model, primarily documenting the findings and recommendations of the UNODC stocktaking exercise according and the UNODC's guide to non-custodial measures for WICL. The current pilot model will be documented, and evaluated for replication in other provinces

In her message of support, MEC Sharna Fernandez (Minister of the Executive Council for Social Development for the Western Cape Province) emphasised that: *"...punitive measures for crime, particularly minor crimes, can have serious unintended consequences for the actual victim, because for years governments worldwide have dropped the idea of rehabilitation and restorative justice and (have instead favoured) the use of incarceration...(W)e are seeing more and more women being imprisoned... We have to understand when women need to be incarcerated and when not. When one is handed a criminal record, the chances of living a life of value and making a positive contribution to the community that you live in diminishes significantly... (W)e don't*

¹ Information available at <https://www.visionofhumanity.org/maps/#/>.

understand the impact of the children that get left behind and the trajectory they go through and where they end up.”



Caroline Peters, Director Callas Foundation, indicated *“Femicide numbers are high. Government has not done enough. Civil society is tired of making a noise. The trauma of our community has become normal, and something must be done to change”.*

Figure 1 MEC Sharna Fernandez

Advocate Jakkie Wessels, Regional Court President, Limpopo indicated *“It is easier to give a fine rather than finding out what the reasons are for committing an offence. If the person is not been able to be monitored, then will be incarcerated. It is therefore good to know who the stakeholders are that will participate in the non-custodial interventions. Options could then be structured in a manner to have a better impact on offenders and their families. Presently, there are no laws in South Africa allowing for adult diversion. We therefore would like to see if some of the recommendations of the pilot project will lead to amendments in the law”.*



Figure 2 Ms Caroline Peters, Director of Callas Foundation



Figure 3 Advocate Jakkie Wessels, Regional Court President, Limpopo



Figure 4 Linda Naidoo NPO, UNODC ROSAF

Linda Naidoo from UNODC, emphasized her enthusiasm for the extensive messages of solidarity “UNODC will continue to provide guidance and support to the project, however we request that government takes cognizance of the recommendations of the Situational Assessment, and addresses legislation and policies to be more

gender-responsive, ensuring that the needs of women, especially those most marginalized, are individually considered, hence leaving NO ONE BEHIND”.



Figure 5 Advocate Bonni Currie Gamwo

Advocate Bonni Currie Gamwo, Special Director of Public Prosecutions: SOCA Unit, National Prosecuting Authority of South Africa emphasized that: “South Africa is a signatory to The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and in supporting the pilot project, South Africa will be

discharging some of it’s obligations. In this way, justice and fairness will permeate through the criminal law system. We need to start changing the mindsets of our communities and those in the justice system.”



Figure 6 Zelna Jansen, Attorney in the community

Zelna Jansen, Attorney, indicated that: *“Some of the preliminary findings were that magistrates and prosecutors are in support of the pilot project because they are keen to receive reports that have the history of the offender and as well as who the stakeholders are that participate in the non-custodial interventions. This will allow, magistrates to make informed and holistic court orders.”*