

GBV JUSTICE

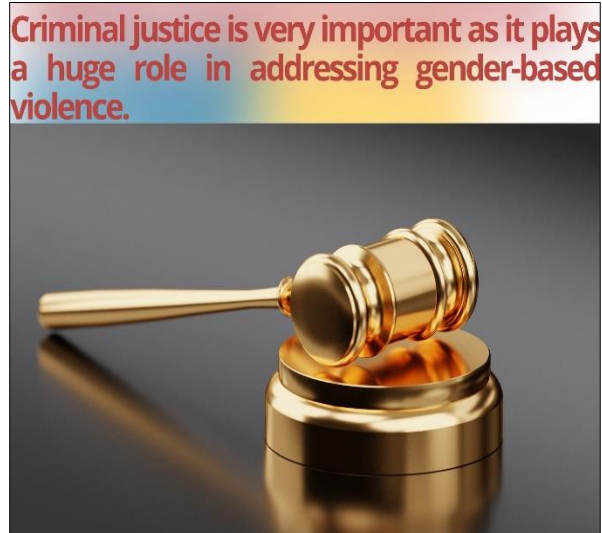


MBOMBELA & EMALAHLENI
MPUMALANGA



JUSTICE FOR GENDER-BASED VIOLENCE CASES

SYNOPSIS



It is without a doubt that societies free of gender-based violence do not exist in South Africa. While much effort is channeled on GBV response and prevention initiatives, however these efforts need to be supported and completed by effective legislative framework and policy development on justice. By addressing the underlying causes of why the justice system is failing GBV victims and survivors we can then be able to respond this surge.

The purpose of this thematic paper is to highlight the need to tighten justice for GBV across Mpumalanga province. GBV victims and survivors in Mbombela and Emalahleni are calling for more interventions to tighten and speed up the prosecution process to instill trust in the criminal justice system.

The paper starts with a review and analysis of various projects, initiatives and research that aim to address the issue of justice for GBV in South Africa. While GBV is a broad and difficult area to deal with, it is crucial for the law enforcement and the criminal justice to be effective, sensitive, and efficient in producing evidence and exploring a range of other interventions that have the potential to speed up Justice for GBV for the safety of women and children in South Africa.

Based on the review of the legislative and policy framework, guidelines, and implementation of various strategic documents and programmes of key government departments, this paper evaluates the existing progress and gaps in the law enforcement to provide justice for GBV to all victims and survivors and then maps out recommendations for strengthening justice for GBV. This thematic paper is targeted at different actors, including government, civil society, policy makers, funders, as well as

community members, who are working tirelessly to find ways to improve the justice system.

Justice for GBV and the legislative framework

South Africa is a signatory to several international treaties and the country has a strong legislative framework and several initiatives to address issues of GBV. These include the establishment of the Sexual Offences and Community Affairs Unit in the NPA, Thuthuzela Care Centers, Sexual Offences Courts, the recent Data Management Command Centre, as well

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as Rapid Response Teams, which include DJCD, NPA, SAPS and representatives from SCOs. With all these laws and initiatives in place, role players still feel that justice for GBV is not efficient and effective to speed up GBV prosecution.

A rapid assessment conducted by Masiphephe Network show that in Mbombela and Emalahleni alone, there is a high number of cases dropping out of the criminal justice system and many cases that never get to the prosecution stage. The Masiphephe Network in Mpumalanga has received several cases of women who have tried to report GBV to their local police stations but were sent from pillar to post. In some cases, perpetrators are arrested, but released on bail the next day. When the victims follow up on their pending cases, they are provided with unpleasant excuses such as missing information from dockets, inadequate collection of evidence, dockets missing/awaiting signatures from the complainant statements or the officers in charge of the case. Such basic mistakes have major implications on the case outcomes leading to many perpetrators not being prosecuted.

Through its community dialogues about justice for GBV, many victims state that they do not report GBV cases because many cases often do not receive quality investigations which lies in the hands of the police services hence denying them access to justice. GBV

cases usually take a long time to be attended to making it difficult to trust the criminal justice.

According to the evidence gathered by Masiphephe Network during justice for GBV dialogues coupled with data from Corruption Watch and Transparency International Global Corruption Barometer Africa 2019 report reveal that police are the least trustworthy institution in South Africa. It is documented that the police in some levels have been infiltrated with patriarchal attitudes that result in victim blaming, disbelief and convincing victims to sort out their matters especially in the case of intimate partner violence. Such kind of behaviour is also surrounded by high corruption levels. Some Victims of GBV in Mbombela and Emalahleni highlighted instances where their case files could not be found, and the alleged perpetrator was affiliated/know to the police. Corruption Watch reports reveal power dynamics where money and connections have power to determine outcomes.

How the law works in South Africa puzzles many especially the victims and survivors of GBV. While the SAPS try to explain on how to report GBV cases, such initiatives are mostly done when there are national events but not on a timely basis. Most GBV victims lack the step-by-step guide on how to report GBV crimes, they lack the knowledge on how the protection order works – an area that has never been well explained to many women in Mbombela and Emalahleni cities.

Covid-19 and Justice for GBV



Under normal conditions, women bear a disproportionate brunt to access the justice system. The Covid-19 pandemic has brought about new challenges for many GBV victims to access the justice system.

In Mbombela and Emalahleni across the areas where Masiphephe Network operates, the GBV surge took its toll during the stringent lockdown measures.

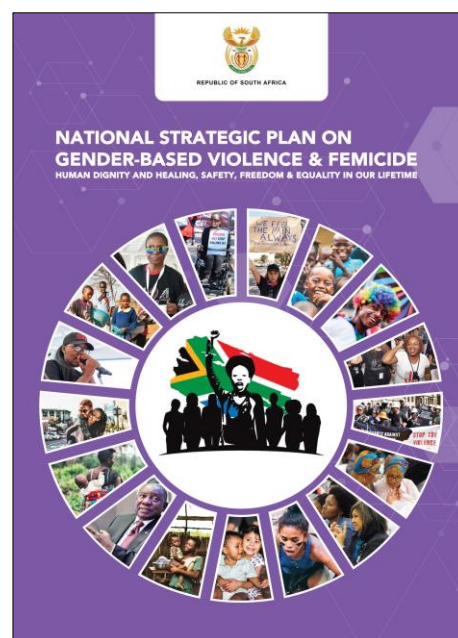
These cities are also seeing a sharp decline of unemployment where the victims and perpetrators spend even more time in the same premises. Anecdotal evidence points that the perpetrators used the pandemic to extend their power and control over victims. The abusers in the village part of Mbombela used lockdown measures as a scare tactic to further isolate victims from their children, family, and friends for fear of infecting them. Masiphephe Network has noted a sharp increase of Intimate partner violence and many of these cases remain unreported.

In South Africa's 30 gender-based violence hotspots that were selected in September 2020, there was no single district in Mpumalanga. Commentators believe that this was a messy exercise because the police are inconsistent with their data and none of the cities in Emalahleni and Mbombela stand to benefit from extra resources and services to attend to GBV cases.

In the face of a pandemic, it is crucial to promote access to and functioning of criminal justice remedies to violence against women but without necessary resources and services it is through policy and operational advice and public advocacy.

Towards Strengthening Justice for GBV

South Africa had its first national strategic plan (NSP) on gender-based violence and femicide, published in March 2020. One of the pillars of interventions is Justice, Safety and Protection. And the NSP also includes two key interventions related to justice for GBV - urgently responding to victims and survivors of GBV and broadening access to justice for survivors. The NSP also has five-year goals including amending 12 pieces of legislation and creating a national database of GBV and femicide that will rely, in part, on disaggregating murder statistics from the police to find out specifics about the relationship between victims and perpetrators. While this is



an applaudable effort, however the roll-out process has been very stony, and the loose process can have negligible impact on bringing justice that satisfy victims and survivors.

In the national programmes to respond and prevent GBV does not include any programme targeted at justice for GBV. Justice programmes and policies should be informed by the best evidence available. They should be built on what has been done at a community level and been found effective; guided by comprehensive research and successful pilot projects and they should drill down to the complex causal factors and address them as well.

While the department of social development facilitates a “Men Championing Change” programme which works with men to help change the social practices that drive intimate partner violence. Such programmes usually lack justice for GBV emphasis resulting in less impact to drive change in the society. There needs to be a peer-review of such programme as well as more research interventions on inclusive access to justice and justice for GBV. These efforts should be documented in alignment with community projects that have been making an impact over the years.

A rapid assessment conducted by Masiphephe Network and some evidence-based stories from the media show that in some cases perpetrators are released on bail where there was concrete evidence of GBV. While GBV perpetrators have their rights, there is a need to handle these perpetrators in a way that ensures justice for the victims as well.

While there is a wide range of research about What Works To Prevent Violence Against Women and Children, these papers do not include justice for GBV which is vital not only in reducing GBV but also to ensure the safety of survivors.

Proposed recommendations

- ◆ Justice for GBV requires an integrated approach that is both victim-centered and looking at the local context. This can be enhanced by developing and conducting capacity-building programmes for police, prosecutors, judges, and other criminal justice professionals.
- ◆ There is a need to populate guidelines on how to report GBV cases.

- ◆ There is a need to develop an integrated data collection system, which would allow establishment of baseline and proper monitoring of progress. Relevant data on crimes involving gender-based violence should include victimization surveys and data collected by police, prosecution services or the judiciary.
- ◆ There is a need for dedicated personnel that render services, including in Criminal Justice system.
- ◆ There is a need to improve capacity building by providing appropriate and continuous training for law enforcement professionals who work in the field of GBV specifically police officers, investigation officers and detectives.
- ◆ There is a need for the criminal justice to set performance targets to ensure that all GBV related work is completed comprehensively, efficiently and in a sensitive manner.
- ◆ There is a need to drive awareness campaigns and strategies to raise awareness of gendered forms of violence and abuse
- ◆ The law enforcement needs to identify where women are at particular risk of GBV and take action to improve justice for GBV.
- ◆ The law enforcement should initiate programmes specifically targeted at victim and survivor support to spread awareness on how the law enforcement works, drilling down to what community member are not aware of.
- ◆ There is a need to formulate policing programmes to tackle anti-corruption and feminist training to ensure that GBV victims access the criminal justice.

Conclusion

Addressing GBV is a complex issue requiring multi-faceted responses and commitment from all stakeholders, including the government, civil society, and other citizens. There is growing recognition of the need to strengthen the justice system for the safety and security of GBV victims and survivors. Whilst international treaties and legislation is important, alone it is not enough to end GBV and strengthen responses. There is a need to address structural causes of violence by ensuring comprehensive legal and policy frameworks as well as gender sensitive justice systems and police. The criminal justice needs to review its work by conducting assessments and evaluations of national laws, policies, and strategies as well as the work of the law enforcement. Now more than ever

it is crucial to close legal loopholes to eliminate the discrimination of GBV victims and survivors. If we were to be successful in our quest for justice for GBV, there is a need to promote specialized and coordinated approaches through the development of standard operating procedures or coordination mechanisms for all institutions in the criminal justice chain.

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