

**Against Secondary Victimization: Person-Centred Service Delivery
for Gender Based Violence Prevention and Response**



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SYNOPSIS

Despite multi-sectoral efforts to stop Gender-Based Violence (GBV) in South Africa, there are no signs of improvement. Thousands of women still experience GBV daily. Whilst the crime statistics released by statistics South Africa quarterly and annually do not reveal the true extent of GBV related crimes, as they are only based on reported cases, the escalating numbers are still alarmingly concerning. Most victims who report such crimes often face secondary victimization, resulting in further violation of legitimate rights.

This thematic paper is framed around anecdotal evidence from lived experiences of community members at Masiphephe Network sites, who consistently experience secondary victimization when they go to report various forms of domestic violence or GBV to frontline service providers such as the police, justice, health and psycho-social support service providers primarily within government, civil society and during media engagements. The paper looks at secondary victimization by the family, community members, by service providers within communities and through the ineffective implementation of policies designed to prevent victimization. Further evidence for this paper was gathered through a review of literature.

BACKGROUND

In South Africa, one woman is murdered every three hours, almost five times the global average¹. In just three months², between July and September 2021, 9,556 people, most of whom were women, were

raped. This is 7% more than in the previous reporting period. Without a doubt, GBV crimes are significantly under-reported, and these cases are only the tip of an iceberg. Researchers have attributed the decline in conviction rates partly to the withdrawal of charges by victims, because of their dependence on perpetrators.³ Research also shows that experiences with the police influence the victims' attitudes towards seeking help in future. Although the police are not the cause and/ or perpetrators of GBV, their demeanors when dealing with, and treating victims of GBV are representing what the justice system ought to do.

Definition

Secondary victimization means the victimization that occurs not as a direct result of the criminal act of GBV, but through the response of other individuals and institutions to the victim.⁴ For this thematic paper, secondary victimization is when the victim suffers further harm not as a direct result of the criminal act but due to the manner in which institutions and other individuals treat the victim.

This definition highlights the overall processes that undermine the legitimacy of a person's status, claims and consequential experiences as a victim of a traumatic incident. However, it is limited in that it does not explicitly raise the issue of attitudes. Yet, it is the victim blaming attitudes and perceptions that inform behaviours and practices engaged in, which subsequently result in additional trauma for GBV survivors. For example, a service provider who appears disinterested may re-victimize.

¹Africa Check (03 September 2019) Five facts: Femicide in South Africa. Available at <https://africacheck.org/fact-checks/reports/five-facts-femicide-south-africa>, accessed on 30 September 2022.

²Gender-based violence is a male problem, so men need to step up and fight South Africa's shameful scourge, Daily Maverick, accessed at <https://www.dailymaverick.co.za/article/2021-11-22-gender-based-violence-is-a-male-problem-so-men-need-to-step-up-and-fight-south-africas-shameful-scourge/>, accessed on 1 October 2022.

³Bukiwe, N. (2017) The prevalence and impact of secondary victimisation on the victims of domestic violence perpetrated by the South African Police Services in Durban, South Africa. Available at <https://researchspace.ukzn.ac.za/xmlui/handle/10413/16100>. Accessed on 30 September 2022.

⁴Law Insider (2022) Secondary Victimization. Available at <https://www.lawinsider.com/dictionary/secondary-victimization>, accessed on 27 September 2022.

Community members at Masiphephe Network sites have shared concerns about experiencing secondary victimization when they go to report various forms of domestic violence or GBV abuse at police stations, engage with social workers for psycho-social support services, go to health facilities for medical care, and/or go through the case management processes throughout the justice system.

Resultantly, most community members engaged with at community dialogues and structured interventions conducted by the Masiphephe Network have indicated loss of trust in the key statutory and non-statutory stakeholders in holistic GBV case management; because of feeling re-victimized, not listened to, adequately cared for, or basically do not access justice.

The types of secondary victimization include victim blaming, inappropriate behaviour or language by medical personnel and by other organizations with access to the victim post assault. Re-victimization of a person who has experienced a traumatic GBV incident can occur through:

- Failure to treat the victim with respect and dignity;
- Disbelief of the person's account;
- Unsympathetic treatment;
- Blaming the victim;
- Lack of (or insufficient) support services to assist the victim at interpersonal, institutional and broad societal levels.

Secondary victimization is a frightening and unsettling experience for many GBV survivors. It is unpredictable, largely unpreventable and often unexpected. Unlike normal life experiences, victimization is not sought out and never welcomed. It is debilitating and demoralizing. Its effects can be often long-term and difficult to overcome.

⁵ Law Insider (2019) Secondary Victimization. Available at <https://www.lawinsider.com/dictionary/secondary-victimization>. Accessed on 27 September 2022.

Causes

Secondary victimization may be caused, for instance, by repeated exposure of the victim to the perpetrator, repeated interrogation about the same facts, the use of inappropriate language, unintentionally insensitive comments made by all those who come into contact with victims, insensitive media reporting of cases.⁵

Effects

Victims may be confused, fearful, frustrated, dehumanized and angry. They want to know why this happened, and why it happened to them. Victims often have no knowledge of who or where to turn in the aftermath of GBV, more-so repeated GBV. They feel insecure and do not know who to trust or rely on for support, understanding, and help. Not only do they suffer physically, emotionally, psychologically and financially from their victimization, but they are also often burdened by the complexity of the justice system. The long unwinding road of seeking justice has taken a toll on many survivors of GBV and is then a form of secondary victimization.

LEGAL AND POLICY FRAMEWORK

The Constitution (1996) does not make specific mention of crime victims. However, section 12(2) in the Bill of Rights provides for the 'right to bodily and psychological integrity', which includes the right to security in and control over their body'. Furthermore, section 12(1) states that 'Everyone has the right to freedom and security of the person', which includes the right 'to be free from all forms of violence from either public or private sources' and 'not to be treated or punished in a cruel, inhuman or degrading way'.⁶ The Domestic Violence Act No. 116 of 1998 makes provision for a 'protection order' – a civil instrument that prohibits respondents (the perpetrators of abuse) from certain acts of violence.

⁶ The Constitution, South African Government, 1996, accessed at <https://www.gov.za/documents/constitution-republic-south-africa-1996>, accessed on 2 October 2022.

The Act places 'positive duties' on the police to provide assistance to victims (in the context of the scene of a domestic violence incident, or when taking a domestic violence complaint). The National Crime Prevention Strategy (NCPS) specifically promoted service provision to victims as part of a crime prevention agenda. The NCPS expressed the view that there was a need to move away from a state centered system of criminal justice to a 'victim centered, restorative justice system.'⁷

The Service Charter for Victims of Crime in South Africa (also referred to as the Victims' Charter) approved by Cabinet on 1 December 2004, is an important instrument for promoting justice for victims of crime in South Africa. The Victims' Charter is compliant with the spirit of the South African Constitution, 1996 (Act 108 of 1996) and the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 (GA/RES/40/34). The Service Charter for Victims of Crime in South Africa housed by the Department of Justice highlights that victims of crime (including GBV) have⁸:

- The right to be treated with fairness and with respect for your dignity and privacy 6
- The right to offer information
- The right to receive information
- The right to protection
- The right to assistance
- The right to compensation
- The right to restitution

The Victims Charter aims to:

- a) Eliminate secondary victimization in the criminal justice process.
- b) Ensure that victims remain central to the criminal justice process.

- c) Clarify the service standards that can be expected by and are to be accorded to victims whenever they come into contact with the criminal justice system; and
- d) Make provision for victims' recourse when standards are not met.

The Victims Charter can be traced back to the National Crime Prevention Strategy, 1996 as well as the National Victim Empowerment Programme, 1998. Both the strategy and the programme focused on the important role victims should play within the justice system. The Victims Charter presents a rights framework for services provided under the Victim Empowerment Programme (VEP).

In order to define what services victims are entitled in terms of seven rights listed in the Victims Charter, a Minimum Service Standard for Victims of Crime, 2004 was also developed. The Service Standards sets out responsibilities that each government department such as South African Police Services, National Prosecuting Authority, Departments of Health, Justice and Constitutional Development, Social Development and Correctional Services, should provide when victims present themselves at public institutions (courts, police stations and hospitals etc.).

Although the Victims Charter and the Minimum Standards on Services for Victims of Crime do not explicitly define secondary victimization, the realization of victim's rights is paramount. The current legislation and policies, although powerful on paper, are not being enforced in practice. They reiterated that in order to avoid or reduce the occurrence of secondary victimization, awareness and training need to be provided to all professionals who engage with GBV victims.

⁷ Policy and Legislation Relating to Crime Victims, Institute for Security Studies (2007)., accessed at <https://issafrica.org/chapter-3-policy-and-legislation-relating-to-crime-victims>, accessed on 30 September 2022.

⁸ Department of Justice and Constitutional Development, Service Charter for Victims of Crime in South Africa, 2020.

RECOMMENDATIONS

While there are broad responses to reduce GBV in South Africa, various criminal justice professionals need to be well-trained to attain sufficient knowledge needed to handle GBV cases. There is an urgent need for duty bearers to play a crucial role in ensuring confidence in the country's justice system, which will subsequently see more victims of GBV coming forward to seek help. When victims have positive experiences with the entire justice system service providers, it increases the likelihood of seeking help from the system the next time they need it and refer others for similar help. Monitoring of the measures that ensure that victims of GBV are treated fairly across government departments that provide services needs to be strengthened in South Africa to eradicate secondary victimization. Key recommendations include:

- **Policy Framework:** Implement mandates of Victims Charter and the Minimum Service Standards for Victims of Crime.
- **Behaviour Modification, Attitude Adjustment:** To address compassionate fatigue, system fatigue, there is need to apply the Principle of Self Determination and clear Accountability Mechanisms across all service departments.
- **Monitor, evaluate and report improvements:** Improved systemic and structured monitoring, evaluation and accountability systems for clear accountability mechanisms.
- **Community Level prevention:** Community members should report to senior officials – use police monitoring and reporting tools and report to principals and Community Safety (SAPS). Community members should be made aware of community safety monitoring and reporting tool.
- **Training:** Prioritise accredited training and capacitation with monitoring, coaching, ongoing structured and engaging support and oversight of frontline workers. Train frontline officials, conduct structured refreshers and onsite sensitization and oversight post trainings. Integrate diversity training and accepting people for who they are, especially to “stem the tide on hate crime”. There is need to balance empowerment on stakeholders with improved service delivery for survivors.
- **Interpretation resourcing and skilling:** Introduce sign language interpretation services and capacitation at all service points and more rural courts. Capacitate – train – frontline workers within workplaces who have passion and desire to learn sign language at community level.
- **Activate Consequence Management:** Implement code of conduct, minimum standards and standard operating procedures processes without fear and favour.
- **Empower beneficiaries:** Equip shelters with needed vocational skills opportunities for empowerment of victims.
- **Strengthen multi-disciplinary referral:** Establish clear referrals and ensure follow-up systems. Have specialised GBV experts at each government department who relate and directly refer for strengthened referrals.
- **Prioritise adequate resourcing:** Provide tools of trade for service providers (phones, cars, kits) to inform communication with victims and families. Allocate resources to institute the initial plan of every hospital having a Thuthuzela care Centre (TCC). Add more to align with population demand informed by the DOH and SAPS GBV statistics. Ensure adequate shelters to support the population demand also informed by DOH, SAPS and anecdotal evidence. Upskill and adequately resource shelters to be effectively inclusive and diversity for people with special needs including people with disabilities (impaired hearing, sight, physical) and LGBTQIA+ people.

- **Local government and structures need to ensure service delivery:** water, electricity, sanitation, waste removal.
- **Partnerships:** These should be revived, scaled, sustained. Networks and forums should concretise advocacy work and awareness programmes.
- **Functional and adequate Victim Friendly Rooms (VFRs) or Victim Friendly Facilities (VFFs):** Use separate rooms when assisting clients. DSD should address the shortage and inaccessible places of safety.

CONCLUSION

There is very little documented evidence of secondary victimization in South Africa. With high formal under-reporting of such experiences, evidence needs to be gathered

at a community level for prevention planning, strategising, reporting and better consequence management. The Masiphephe Network continues to highlight that the community members in the areas where the organization works often face secondary victimization by family members and even duty bearers.

Despite the sophisticated legislation to protect the victims of GBV, many have lost trust in the justice system due to secondary victimization amongst other factors. With such challenges, only a few cases make it to court and with favorable justice outcomes. Multidisciplinary efforts to strengthen the implementation of legislation, minimum standards and the Victim's Charter for protecting GBV victims should enable the effective realization of rights for victims.