

Gender-based Justice:

Reflections on social justice and social change

- A CSA&G monograph -



CSA&G
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Gender-based Justice: Reflections on social justice and social change

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ABBREVIATIONS

ANC	African National Congress
CPSA	Communist Party of South Africa
CSA&G	Centre for Sexualities, AIDS and Gender
CSO	civil society organisation
FEDSAW	Federation of South African Women
GBV	gender-based violence
LGBTI	lesbian, gay, bisexual, transgender and intersex
PARI	Public Affairs Research Institute
SA	South Africa
SADC	Southern African Development Community
SDGs	Sustainable Development Goals
SRHR	sexual and reproductive health and rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
USSR	Union of Soviet Socialist Republics
WLWH	women living with HIV

GENDER-BASED JUSTICE: AN INTRODUCTION

It ... requires a strong CSO community to ensure justice and equity and to highlight where rights are being abused and neglected – we have to understand what social justice really means – [previously] we didn't use the language of social justice very much. We used language of human rights much more, and I'm not saying that human rights and social justice are not linked, they are. But I think the human rights framework has to now adapt itself to social justice – tie itself to social justice (Director: National South African CSO: 2016).

Saying that an issue is complex or has a complex cause is sometimes used as a strategy to avoid blame and the burdens of reform (Stone, 1989: 289).

This is the first in a series of monographs that will be produced by the CSA&G with financial support from Irish Aid and other partners through a five-year collaboration. The basis for the collaboration is to address gender-based violence (GBV) in Southern Africa; to find common ground to develop new and innovative ways to try and break the chain that links harassment to abuse to rape, and violence to death; and to strengthen a counter-narrative different to the one that all too often informs our responses. This monograph does not describe how the CSA&G and partners will work together to address the range of issues that gender, violence, sexualities and economic realities bring to our attention. It is, however, a foundation document to enable discussion about: (i) the history of attempts to bring equity and justice to the fore; (ii) gender, including how the concept has evolved; and (iii) how, despite the fact that we can and do inhabit so many different identities, the fundamental issue is still one of patriarchy and the gender oppression of women and people with alternative sexualities, arising from the desire to make people conform to an overarching gender belonging. In future monographs we will explore how we will work with partners to address gender-based justice and the kinds of interventions that are possible to shift our gender perspectives and how we view violence.

This monograph should be read as a companion to the Policy Briefs developed by the CSA&G, and in particular *Policy Brief Social Justice and Gender Inequality* (February 2017). This monograph considers whether or not social justice could provide a stronger framework than human rights for addressing gender-based violence in various communities, or whether there is a need to forge a new response that is strengthened by fusing human rights into a wider social justice framework and response.

This monograph has four sections. Section 1 offers a broad historical overview of a history of challenging gender and racial oppression through the actions of women's organisations and other forms of activism in South Africa. Section 2 looks at the social construction of gender and how we need to move away from the common narrative that predominantly prefigures women in discussions about gender and to recognise the diversity of gender identities and relationships that operate in families and households, in communities and in society. Section 3 offers a discussion of human rights and social justice, and how a re-evaluation of these ideas for social change can lead to a new narrative. It also creates an understanding of and argues in favour of support for *gender-based justice*. The section concludes with a case-study on reproductive justice. Section 4 brings together a collection of the major laws, protocols and commitments that have been made with regard to issues of gender and gender-based violence, along with selected speeches and comments by politicians, and a selection of media responses to gender-based violence.

As we move into the next five years, it will be critical to find new ways to understand gender-based violence and innovative ways in which we can work as partners with communities to respond to harassment, abuse, violence and gender relationships, if we are to create the kinds of societies that all the protocols and calls to action envisage. In doing this, we recognise the strength of both women and men to challenge the stereotypes with which we are confronted with daily – and to seek ways to *empower* and *re-power* both men and women, irrespective of what gender identities they prefer and inhabit.

Seeking to establish a society based on gender-based justice offers a new way of looking at the ways in which we have been conditioned over the years to think about gender and our reactions to violence and abuse. Social justice – framed within a rights-based view of the world and seeking a new understanding of power that is underscored by liberation for all – offers us a lens through which to see the opportunities for new programmes of action, new narratives of change, and new patterns of social cohesion. We can all identify the roots of such widespread gender-based discrimination, stigma and violence. However, we hope that over the next few years we can find new ways to pull up those roots and plant the seeds of equity, dignity and development.



SECTION ONE

Locating social justice in the South African context

Laying the foundations: what does history offer?

Just over 60 years ago, in the wake of World War II, and after the adoption of the ideology of apartheid as the form of state power in South Africa, a conference to found a national organisation of women was inaugurated in Johannesburg. On 17 April 1954 the Federation of South African Women (FEDSAW) was launched. The work of the conference was taken up with drafting and adopting the *Women's Charter*. Long before the popularity of the term social justice gained purchase, this Charter set out the terms for an understanding of social justice -- both in theory and in practice -- which is still relevant today. This section explores the South African-based conceptual and empirical arguments for a social justice approach to justice and equality in South Africa over time. Early proponents of social justice saw gender equality as a key means and indicator of greater justice for all, and took into account the constraints and contexts of this approach. As the Charter put it in 1964:

We also recognise that large numbers of our womenfolk continue to be bound by traditional practices and conventions, and fail to realise that these have become obsolete and a brake on progress. It is our duty and privilege to enlist all women in our struggle for emancipation and to bring to them all realisation of the intimate relationship that exists between their status of inferiority as women and the inferior status to which their people are subjected by discriminatory laws and colour prejudices (FEDSAW Women's Charter, 1954).

The Women's Charter insisted on the intimate relationship between the inferior status of women and the lack of rights of the majority. The Charter named citizenship and the yearned for justice underpinning it, as simultaneously "individual rights bearing" (familiar to the language of human rights), as well as recognising "rights to persons constituted into groups" (such as communities and kinships), whose lives have been shaped by the normalisation of inequality based on gender and sex roles.

In addition to calling for justice based on full equality before the law, the Charter also named the economic, cultural, religious, educational and historical injustices faced by women in relation to men from their own families, and men of higher wealth and status, and firmly introduced the notion that justice and equality, and indeed the development of civilisation, can only be measured against the status and power of women in any given society (sahistory.org.za; Walker, 1990; Wells, 1993).

Few scholars of social justice in this country or elsewhere have given this gathering, and the text it generated, due attention. The gender equality and social justice language of the Charter was visionary for the African continent, and predictive of the fuller view of justice and rights contained in the post-apartheid Constitution of South Africa, promulgated into law in 1996.¹

It is through the lens of the Women's Charter, rather than the more famous Freedom Charter, that this section draws together the links

between a growing sense of gender as a powerful transmission belt of injustice and inequality, and naming and challenging the features of sexism as central to the broader struggle for freedom in the region.² On 26 June 1955, a year after FEDSAW met, the Freedom Charter was adopted at Kliptown, west of Johannesburg, by the African National Congress (ANC) and its alliance partners, the so-called Congress Movement. But the broad array of organisations that had been convened by FEDSAW a number of years earlier was not matched at this gathering, styled "The Congress of the People". In her overview of women and political movements in South Africa, Shireen Hassim (2006: 20-26) has argued that FEDSAW's relationship with both the leading national liberation movement, the ANC, and the ANC Women's League was complex and at times fraught.

It took until 1943 for women to be allowed to become full ANC members. Thirty-one years after the formation of the ANC women were finally able to deliberate and to also vote within the ANC, although they remained marginal to the ANC's key power structures. For the first the decades of the ANC's existence 'liberation', 'freedom' and 'justice' were understood to mean citizenship, equality and justice for men and between men, with women openly and without hesitation described as rights-bearing only in relation to men: their husbands, fathers, sons and brothers. If all liberation entities carried this gender blindness into the second half of the twentieth century this could be attributed to the deeply embedded norms of the day. Yet since the Women's Charter's clear articulation of gender and social justice as twinned actually preceded the Freedom Charter by more than a year, this view is impossible to sustain.

FEDSAW and its Women's Charter drew on a long history of debate about the meaning of justice, and the best way to achieve this in twentieth century struggles. Unlike the founding texts generated by male-dominated organisations that came into being through the twentieth century in order to struggle for justice in South Africa, FEDSAW argued in its Charter that gender power, and injustices towards women and younger men, based on sex and gender discrimination, were a fulcrum of all injustices between people in this region. Focused as they were in the 1950s on heterosexual gender roles and sexual expressions, and conventional in their depiction of the centrality of women's roles as mothers, they broke with convention and drew attention to sexual and labouring inequalities and drew on local and global evidence to make their case. Thus the seeds of a broader view of gender power were sown within the text. Returning to the Charter itself, the next section will first sketch the more familiar history of the concept of social justice, and its philosophical, juridical and policy-oriented definitions in debates across the progressive spectrum, and its place in theories of transformation and development from the 1950s into the present.

Universal accord? Human rights as a basis for justice

In South Africa, and globally, World War II was a watershed in anti-colonial, anti-fascist, anti-racist and, to some degree, anti-elitist struggles. Despite some success in broadening access to democratic institutions in Europe and some murmurs of discontent that would eventually lead to the end of European colonial rule across Africa and the global south, inequality and oppressive systems remained embedded. Economists, philosophers, historians and activists have been at pains to explain why, despite constitutional shifts and the creation of democratic orders, the disparity between rich and poor, with a more glaring gap between the wealth of men and women (what some have termed 'the feminisation of poverty'), has persisted or even deepened since the world oil crisis of the 1970s, and worsened even more over the last 20 years (Dabla-Norris *et al*, 2015; Seligson and Passé-Smith, 2014).³

To address this social justice indicators, particularly as they have been developed over the past three decades, have drawn attention not only to individual persons and their *de jure* rights, but also to the shape and form of access – sometimes referred to as 'distributional justice'. Here inequalities derived from unequal distribution of services, jobs, housing, education, taxation, land distribution, historic access to intergenerational debt and wealth, and so on, have to be understood as undermining not only wealth or income security for people in the present, but also access to *de facto* justice.

Food pricing is often seen as a proxy of distributional justice. Since low-earning people across the world spend a greater proportion of their income on food, an increase in the price of an essential foodstuff makes them a great deal more vulnerable than middle-class or affluent people. In most societies it is relatively easy to perceive gender inequality within social class – data such as women's net income compared to men's net income, and women's labour in waged and un-waged work compared to men's labour – is readily available.

Disparities between men and women across all measures remain stark throughout the world, with few exceptions (Global Gender Gap Report, 2009; 2010; 2011; 2012; 2013; 2014; 2015; 2016).⁴ In addition to unequal access to food, housing, education and health, social justice activists and policy-makers point to the challenges of paying for electricity, water and fuel. Women are also affected – directly or indirectly – by environmental degradation and by climate change. Inequality in the distribution, costs and maintenance of infrastructure are also enduring aspects of inequality and social injustice. A social justice approach and social equity require a system of development in which people have equal capacity to access social and economic goods, regardless of their social and economic backgrounds.

Thus social justice advocates call for equality of rights and opportunities as central to ensuring justice. In order to realise this goal social justice policy-makers promote interventions in economies and structures, often state-led and directed, involving

redistributive rather than so-called market-driven interventions. The shape and form that these drivers take differs according to political formations and historical contexts. Critics of state-led and top-down radical transformation – drawing on libertarian, conservative, and radical philosophies – decry social justice discourses and aims as centrist, as homogenising, as paternalistic, as religious, as partisan, as naïve and even as racist. Social justice approaches are thus the grandchildren, for good and for ill, of the grand progressive social movements for utopian and often social democratic and socialist development, and their aims are highly contested in states as different as Germany, South Korea, China, India, Poland, Ghana, Brazil, the USA, Ireland and South Africa.⁵

Maxeke and Schreiner: Gender equality and social justice

The persistence of disparities of opportunity and wealth between and amongst men and women of the same social class and family structure have bedevilled liberal, conservative and socialist analyses that do not have a theory of gender power. Beginning in the early twentieth century women in South Africa (and a small number of men) began to develop a language and tools of analysis to describe and understand the deep cleavages between men and women in private and public domains. Their analysis took into accounts differing cultural practices and ethnicities, and examined the world of work; the legal sphere; and the political sphere (Joseph, 1956; Karis and Carter, 1977). One of the most interesting of these commentators was Charlotte Maxeke. Comparing the status of South African women with that of women in the USA, including women of African descent, Charlotte Maxeke's vision for gender equality was prescient. Many of her major ideas and demands are only being taken up today.

Maxeke was a Xhosa- and English-speaking woman who grew up in the Eastern Cape of South Africa in the last three decades of the nineteenth century, at a time when the region was still a British colony. She received her tertiary education in the USA, and in 1933 she co-founded the National Council of African Women, assembling it from the embers of the Bantu Women's League (which she too had initiated earlier, in 1918). It was at the point of co-founding the National Council of African Women that she addressed a largely white audience of women in the Women's Reform Club, which was then meeting in Pretoria and was organising for women's enfranchisement. She later joined the Joint Council of Europeans and Bantus and challenged normative expectations of gender inequality in many of their meetings, arguing against peers who focused on race inequities above those of gender, facing condemnation from comrades to her left, including the passionate Communist, Josie Palmer (Gasa, 2007: 220-221; Walker, 1990; Wells, 2003).

In the last years of her life Maxeke was elected president of the Women's Missionary Society of South Africa, where she argued for an interpretation of Christianity that differed markedly from many

Christian theologians of her day with regard to women's rights, and her understanding of truth and justice for all. Her analysis of women's oppression was developed in oratory and in written analysis, and carried in both English and Xhosa newspapers, such as *Umteteli wa Bantu*. From 1913, when she led marches in protest against black women in South African cities being required to carry identifying 'passes', until her death at the outset of World War II, she did not hesitate to address women's vulnerability to sexual assault and rape, women's burdens of physical labour, their unequal legal status (including in customary and pre-colonial legal formations), their poverty and the particular responsibility that they bore compared with the men in their own kin groups.

Maxeke did not live to see the injustices experienced by women addressed, even by the liberation movement she supported: the South African Native National Congress, later called the African National Congress (ANC) (Campbell, 1995; Jaffer, 2016; McCord, 1995; Skota, 1965; Walker, 1982).

Charlotte Maxeke's contemporary, Olive Schreiner, also offered a powerful indictment of gender injustice, and its interwoven forms, within colonial and imperial and racial power. Schreiner argued that for redress and transformation to occur the potential power of women and their labour, drawn together across kin and ethnic and class boundaries, would have to be a direct goal: female solidarity against domination. Her views have shaped feminist thinking in African and global contexts. She published a book in the year before the male and white-only political settlement after the War (known as the Second South African War, and formerly as the Anglo-Boer War of 1899-1902), that forged the new dominion, the Union of South Africa. The book appeared in the lead up to the Act of Union in 1909, and was entitled *Closer Union* (1908).

In it she argued, in an extended polemic, for codifying and recognising a rights-based order for all black men and all women in the country's Union Constitution. Although she had joined the Cape chapter of the Women's Enfranchisement League soon after the Anglo-Boer War, she later resigned over the exclusion of black women from sister chapters. This experience made her extremely wary of gradualist arguments for justice and reformist arguments for national liberation.

It was her publication in 1911 of *Women and Labour* which cemented her place in international debates about social justice and women's equality. She pointed out the stunted nature of men's morality and its frailty, given ubiquitous male claims to reason-based rule. She decried men's parasitic and false power, and pointed to their delusions of liberty, as long as their stature depended on their oppression – covert as well as overt – of half of humanity (Schreiner, 1911; Stanley, 2014).

Thus while Maxeke was unusually courageous in drawing overt and insistent links between poverty, racism and injustice against women, she was not alone. Maxeke and peers like Schreiner left a unique legacy. This legacy points to the visibility and traction of pressing gender struggles at the start of the 21st century in South

Africa, and allows us to position the struggle for gender equality and justice within a much broader time-frame. In this sense, even in South Africa, the effort to find a language to name social justice as inseparable from gender equality is more than a century old.

As the Czech writer, Milan Kundera (1980) put it (with the male noun used in the English translation): "The struggle of man against power is the struggle of memory against forgetting"; or, as the social historian of working class life in Europe, E.P. Thompson, said in *The Making of the English Working Class* (1963), the work of historical reclamation is vital to fight against "the enormous condescension of posterity."

A patchwork of patriarchies

Recognising the salience of the deep past in the formation of injustices towards women and younger men, but especially black women, Belinda Bozzoli, whose writing on the overlapping of race, class and gender has shaped two generations of scholarship on the subcontinent, wrote about power in South African history and society under apartheid. Her seminal paper, published in 1983, emerged at a time when the internal struggle against the apartheid regime was beginning to find new legs in the build-up to the launch of the United Democratic Front. The Front joined with underground forces and entities external to South Africa to launch a decade-long final struggle against the apartheid system and to ensure that justice in South Africa was given its rightful prominence (Seekings, 2000).

Bozzoli called for a deep examination of the patchwork quilt of patriarchies that underpinned all South African society. She drew together voluminous evidence that social formations, long pre-dating colonial conquest of Southern Africa, were built on patriarchal labour as well as meaning-making orders. With one stunning counter example, *The Lobedu Queendom*, or *Realm of the Rain Queen* (Krige and Krige, [1943]1965) in the Southern African region, she showed how sex-gender systems favoured males and especially senior men. The specific forms of male domination that settler societies brought with them to Southern Africa and then developed further, had to accommodate and adapt to these pre-existing indigenous forms. She examined the literature on the forms and consequences, for men and for women, of land dispossession and war. She argued that the gender divisions in control of the products of agricultural, mineral and mercantile production and exchange were germane to the gender orders of the late twentieth century. She compared Boer, indigenous African, South African Indian, British Settler, and local forms of Creole communities and their forms of patriarchal power, and noted that generation as well as gender was a significant feature of oppression and injustice.

Bozzoli also insisted on the importance of the then largely ignored social analysis of the control by men over women's bodies, movements, morality, personhood and labour. This control, she argued could never be fully explained merely in terms of racism,

capitalism, global forces or class power. In this she followed Gayle Rubin's paper, 'The traffic in women', which analysed women's global position of inequality and the gendered nature of power, arguing along with Rubin that:

We [should] look for the ultimate locus of women's oppression traffic in women, rather than within the traffic in merchandise ... Women are given in marriage, taken in battle, exchanged for favours, sent as tribute, traded, bought and sold ... The exchange of women ... is a profound perception of a system in which women do not have full rights to themselves (Rubin, 1975: 160-161, as quoted in Bozzoli, 1983: 145).

Bozzoli's analysis of the South African case is worth citing at some length:

... we are left with a picture of a variety of systems of female subordination, each in the process of penetration and transformation by economic forces. The emerging irony of the position of women in the 'patchwork quilt of patriarchies' is that in certain crucial cases their weaknesses are turned into strengths and their strengths to weaknesses. Thus a weak and subordinated female population in black societies, upon whom much of the burden of agricultural and domestic labour, rests, is ironically protected from proletarianisation for longer; while the relatively stronger Boer women, whose position within the household is alleviated by the spread of the cash economy, are torn from the land much more rapidly, and forced to enter the industrial proletariat from the earliest times. In the long run, as we shall see, however, the tables are turned once more ... These historical foundations for the development of modern patriarchal South Africa are of central analytical importance to the theory being presented here. With the penetration into South Africa of mining capital, the 'patchwork quilt' of societies becomes subordinated to the hegemony of a more powerful and revolutionary form of capital than ever before. While the form taken by the modern South African state may be fragmented on the surface, one integrated system of domination and subordination was forged out of the mining revolution. The forging of modern patriarchy thus must be interpreted as the result of the interplay between the process of state formation on the one hand; and the 'historical givens' of the pre-existing societies in the region on the other. This lends tremendous complexity to the analysis which needs to be undertaken (Bozzoli, 1983: 155).

Consolidating historical and social factors

The women who worked to create a new Charter in 1954 were acutely aware of the tremendous complexity of the analysis of women's juridical, social, cultural and economic subordination in South Africa by the 1950s, and so they struggled to sharpen the language and explanatory power needed to argue their case, in a persuasive and galvanising way. After months of labour and planning, the gathering finally met (Hassim, 2014; Walker, 1982; Wells, 1993).

On 17 April 1954 this federation of women, drawn from hundreds of smaller and larger women-initiated organisations across the region, came together to agree on a founding Charter. In this move women in South Africa gathered as part of a long tradition of women-led Chartist movements, and drew to the attention of the world stage a wider and more radical view of 'justice' and 'rights' than the focus on individual human rights alone, compared to the interpretations of justice and rights common amongst law makers of the day.

These had found expression in the United Nations General Assembly, which had inaugurated 'The Universal Declaration of Human Rights' (UN Declaration) in Paris just six years earlier, on 10 December 1948. European states, whose hegemony would soon face increasing global challenge from anti-colonial independence movements from India to Ghana, were signatories together with other global nations of the time. Altogether some 48 countries signed the Declaration. South Africa, along with seven other countries, abstained (Morsink, 1999).

Foremost in the minds of the women who convened the Conference in 1954 in Johannesburg were several specific clauses in the Universal Declaration of Human Rights. These clauses spoke to humanity as a common inheritance, and to rights as a shared value. In their Charter, they took aim at the racial oppression faced by women in South Africa, faced alongside their male friends, lovers, husbands, brothers, children and fathers; and then they took aim at the bankruptcy of South Africa's definition of citizenship and person-hood, which excluded women as well as black people. Furthermore, the women called on men excluded from state power to reconsider the other forms of power they nevertheless exercised over women and girls. They chastised the state for the injustices felt every day by the majority in the country. In this they joined with many in the world community, who from the 1950s were beginning to decry South Africa's white minority regime.

In a nod to the UN Declaration, the women went much further than this. They set out explicitly to address the entitlements of groups over others – classes of persons – and here they named women, and their struggle for self-realisation and dignity, and their right to redress, in a way that insisted on the veracity and value of this as much as racial equality.

Nearly fifty years later, and in a powerful restatement of the UN's founding ideals and its later stance against apartheid, the General Assembly was addressed by the head of the new South African state. In October 1994, as President of South Africa, Nelson Mandela began his address thus:

It surely must be one of the great ironies of our age that this august Assembly is addressed, for the first time in its 49 years, by a South African head of state, drawn from among the African majority of what is an African country.

He went on to call on the Assembly to recommit as much to the fight against racism as to the fight against sexism – the first call by a leader from this region to do so. He linked these struggles to the struggle against poverty and tyranny.

In his study of the many ironies of South Africa's position within the United Nations from 1948 to 1994, the historian Saul Dubow (2008) traces the role that another globally famous South African head of state played, first in the drafting of the League of Nations Charter, and then in the founding texts of the UN Declaration. This

was the leader of South Africa through World War II, Jan Smuts, whose party lost the 1948 election and thereby opened the way to a more extreme form of racial segregation and apartheid. Dubow (2008: 45) notes:

Few people ... have been inclined to recall ... that a previous South African head of state had once taken a prominent role in the United Nations' plenary proceedings: a statesman who was also in his time a symbol of world freedom. This was Jan Smuts, who helped to inspire and shape the ringing Preamble to the UN Charter in 1945, including its mention of 'human rights'. A quarter of a century earlier, this apostle of world government and international co-operation had helped to structure the League of Nations and draft its Covenant. But readers of the considerable literature on the international history of human rights which has emerged in the past two decades will have to look hard to find reference to Smuts' hand in the process, if this is acknowledged at all.

These ironies were not lost on the women who convened the Johannesburg gathering. Many of them had been active in various sectors in the Allied War Effort – and some of them had been decorated for their work. They were well aware that the Union of South Africa had abstained from approving the UN Declaration partly because India, and other states, wanted to use it to condemn South African forms of racial discrimination. They were mindful of the power of this kind of Declaration, as well as its limitations. In this they were prescient, and forerunners of the civil rights and feminist struggles of the 1960s onwards, which demanded a specific focus on racial and gender-based injustice, as well as on economic exploitation.

They saw the power of engaging in the politics of Charters and Declarations and through their own drafting insisted on the potential for wider interpretations of freedom and justice.

This approach was captured by some delegates from Southern hemisphere countries in the wake of the UN Declaration, whose delegates hoped that it would be a reaffirmation of both individual and social worth and entitlement. Reflecting later on his views about this day in 1948, Hernán Santa Cruz of Chile, a member of the drafting sub-committee, wrote:

I perceived clearly that I was participating in a truly significant historic event in which a consensus had been reached as to the supreme value of the human person, a value that did not originate in the decision of a worldly power, but rather in the fact of existing – which gave rise to the inalienable right to live free from want and oppression and to fully develop one's personality. In the Great Hall ... there was an atmosphere of genuine solidarity and brotherhood among men and women from all latitudes, the like of which I have not seen again in any international setting (United Nations, n.d.).

While several of the Communist states that abstained argued they did so because the Declaration eschewed several tenets of socialism and focused too much on individuals at the expense

of a critical view of state-sponsored fascism and its driving force in recent national oppression, the South African government delegate, Harry Andrews, argued instead in the General Assembly that the draft declaration submitted to the General Assembly went far beyond the rights and freedoms contemplated in the Charter. Along with Eric Louw, the South African Ambassador to the UN, he argued that it was clear from the provisions of the Charter that there had never been an intent to include social, cultural and economic rights in the draft declaration (Morsink, 1999:27).

In his disavowal of social, cultural and economic 'rights', Andrews was explicitly concerned about a key feature of South African law until 1994: according to the South African Union Constitution and in subsequent laws of the Republic of South Africa, only a person 'of European descent' could be a member of the House of Assembly or of the Senate. The South African House of Assembly delegates argued in 1948 that the right to representation in the government of the day was not a 'universal right' but was instead frequently, and not only in South Africa, conditional on differing national qualifications of franchise. In the South African case this included both race and gender, and was underpinned by class since, from the days of the Cape and Natal colonial governments – backed by Whitehall – property qualifications had been implicated in the enfranchisement of men. These were mainly white men, but also black qualifying men in the Cape, and some so-called 'exempted native' men in the Colony of Natal.

While racial, caste, ethnic, religious and economic discrimination was present across many societies of the world in the middle of the twentieth century, nowhere was the exclusion of women from the franchise seen as a reason for disqualification of a nation state from the august world body.

Women in South Africa therefore knew that the UN Declaration, despite its ringing tones, did not self-evidently apply to them, or to any other women in the world, and that their exclusion did not meet the mandate for action or approbation or protection, set out as responsibilities intrinsic to UN Member Nations when its Declaration was systematically abrogated.

It had been only 14 years since the enfranchisement of white women in South Africa. This had been achieved through dubious and painful means, with a Bill requiring constitutional change, brought by the white male nationalist leader J.B.M. Hertzog to the House of Assembly in 1930. Women who met the qualification had to be of European extraction and their constrained entry into Parliament was built into a related section of law, stripping black men of their vote on a common roll in the Cape. In 1936 the same parliament enacted the Representation of Natives Act, removing black male voters from the common roll, and substituting the election of three white members of the House of Assembly to speak up for the interests of black voters.

After the 1948 victory the National Party began to take calculated steps to shift the Constitutional foundations so as to remove the last men of Creole background, known as 'coloured' men, from the common roll. In the build-up to the 1954 Federation and Women's Charter daily political struggles in South Africa were dominated by the legal machinations of the apartheid state, as it set out to strip men of their right to vote.

In this atmosphere women began to focus on broader rights than the right to vote, while never backing away from the demand of votes for all. Women leaders began to focus on the fabric of economic, social, cultural, religious and family life as key indicators of suffering, freedom and justice. Eventually the apartheid state claimed another victory and in the wake of this franchise denial a women's activist group, called the Black Sash, arose to mourn the further liquidation of justice in South Africa.

The Black Sash started off as a middle-class white women's movement, but went on to develop a wider and more progressive and activist mandate, with an expanding remit that eventually included a focus on poverty relief and the role of rural women. The timing of its emergence is also trenchant: many of the leaders of the Black Sash had been present at the Federation and Charter launch in 1954, and just over a year later this smaller pressure group came together to campaign against the removal of coloured men from the voters roll. Marcella Naidoo, the national director of the post-apartheid Black Sash, argued in 2005 that its members:

... used the relative safety of their privileged racial classification to speak out against the erosion of human rights in the country. Their striking black sashes were worn as a mark of mourning and to protest against the succession of unjust laws. But they were not only on the streets. Volunteers spent many hours in the national network of advice offices and in the monitoring of courts and pass offices.

In the post-apartheid era the organisation came together (after disbanding in the mid-1990s) to fight once again for a wider definition of social justice – explicitly drawing on their interest both in de jure and de facto 'rights', and with a particular focus on women. In this work the Black Sash has been a crucial entity in the fight for the delivery of social grants to women-headed households, to people caring for children and to the elderly who are living in poverty. In 2016 and 2017 the Black Sash was instrumental in compelling the Department of Social Development, via the Courts, to meet its mandate to provide social entitlements to millions of recipients, most of them women, thereby becoming one of the leading social justice non-governmental legal-activist, research and advocacy groups in South Africa.⁶

Tunnelling in on the Women's Charter

The Charter was adopted at the Founding Conference of the Federation of South African Women (FEDSAW) in Johannesburg on 17 April 1954. It expressed the philosophy and aims of the newly established FEDSAW, and was included in the final report of the Conference. Its full text is given in the Appendix.

The Charter is an exemplary balancing act between seeing women as a group, and women in relation to class, colour, creed and their entanglement with men, performing this at a high level of constitutional textual dexterity. The Charter emphasises people, especially women, living in families and groups, and speaks to the collective labour of persons and their collective experiences and collective agency, striking in comparison with human rights discourses of the day. The ideal of the franchise is barely referenced. Instead the Charter harkens to the revolutionary texts of the late 1700s: to the Haitian, French and American revolutions,

and to the Seneca Falls Convention on the rights of women and Communist Manifesto, both launched in 1848. Combining references to faith, culture, historical context, labour, solidarity, independence and entrepreneurship, love, affect and even the value of care, the text eschews all forms of violence as a means to achieve justice and instead makes a specific pitch for women to be guardians of peace. The power being named here is women's deep moral claim, rooted in their labour and dedication and skill and reasoning capacity, rather than based on might or economic resources. Thus the Women's Charter also departs from the revolutionary texts from which it draws sustenance.

In South Africa scepticism about the extension of the franchise as a panacea for social ills, and as the essential form of redress of injustice, was particularly stark. The women of FEDSAW were major sceptics. As indicated earlier, the debate about votes for women in South Africa was supported by an analysis of the intersections of sexism and racism.

The Charter echoed that for women everywhere the sense of the franchise as a primary inviolable right was set alongside sociocultural and familial analysis of 'rights in context'. The Charter emphasises a wider sense of justice, and implied here is an activist and intervening citizenry, convened through solidarity, as well as an activist state and civil society.

The first stirrings of the chartist movements calling on and naming women as full persons in world history came together just prior to the American Civil War, and more than a century before the FEDSAW Charter. The Seneca Falls Convention meeting on 19 July 1848, named after the small town in upstate New York where its delegates met, set out a charter of women's rights. It advertised itself as "a convention to discuss the social, civil, and religious condition and rights of women". The Convention prepared documents including "Grievances" and a "Declaration of Sentiments", and after a heated debate about the worthiness of retaining the franchise as one element of their demands for social justice, the only African American male at the Convention, the activist and ex-slave Frederick Douglass, argued for the inclusion of women's suffrage, stating:

In this denial of the right to participate in government, not merely the degradation of woman and the perpetuation of a great injustice happens, but the maiming and repudiation of one-half of the moral and intellectual power of the government of the world (McMillan, 2009:102)..

The historian Gerda Lerner (1998) and others have shown how religious arguments and exegesis were a key aspect of the power of the Declaration of Sentiments, with the Quaker thinker, Sarah Grimké, able to make scriptural claims that God had created woman equal to man, and that men through history had in fact usurped God's authority, and as with black men and people from Asia and people held in slavery and bondage, had established a form of heretical and absolute tyranny over others, including their own sisters and mothers and wives, namely, women.⁷

The FEDSAW women knew of this text and drew on its vitality and confident assertions as "a convention to discuss the social, civil, and religious condition and rights of woman". As we shall see, some of the FEDSAW members were also aware of the contemporaneous creation and printing of the Communist Manifesto in the same year (1848) in Germany (FEDSAW, 1954; 1956).

Exactly a century after the Seneca Falls Convention and the launch of the Communist Manifesto the new National Party-led government in South Africa was at pains to attack all manifestations of Communism. In the build-up to the Cold War in Southern Africa, the onslaught against socialism and communism in the region took the form of legislation as well as police action. The Communist Party of South Africa (CPSA), formed in August 1921, was banned by an Act of Parliament in 1950. The CPSA was inspired by working people's struggles in Europe and the formation in 1917 of the Soviet Union, a consequence of the Bolshevik Revolution. In the 1920s and 1930s the CPSA began to recruit African men and a handful of women, forming an alliance with the ANC and its partners from the 1940s and 1950s, leading into the period of banning, political trials and exile (Black, 1983; Burns, 1987; Magubane, 1979; Roux, 1964).

Several prominent communists were also participants in the FEDSAW Convention. They included Hilda Watts Bernstein, one of the convenors and organisers. She and others were well versed in the final paragraph of the Communist Manifesto which declares:

The Communists disdain to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Communistic revolution. The proletarians have nothing to lose but their chains. They have a world to win. WORKING MEN OF ALL COUNTRIES, UNITE! (Marx & Engels, 2002).

The Seneca Falls Convention met in the USA just as Karl Marx and Friedrich Engels' Manifesto of workers' rights (by which they meant and addressed specifically male workers) was printed for circulation in Europe and the Americas in the years from 1848. Turning the French and Haitian revolutionary slogans on their heads (not "everywhere men are born equal", but rather "men are born chained"), the Communist Manifesto demanded action and even violent overthrow of oppressors. In contrast, the Seneca Falls Convention demanded rather civic action.

Just over one hundred years later women have been granted the franchise in post colonies, some western democracies, the newly emerging nations of South and East Asia (led by India) and some socialist societies (Lee, 2010; Mishra, 2012). But in the 1950s women across the world were far from equal to men and the Women's Charter demanded both redress and access to opportunity, along with individual human rights.

Within the Women's Charter is a call to discern injustice in the private sphere and to challenge it, whether it includes relations within the family or others of an intimate or cultural nature. This is the sphere where sexism and inequality particularly flourish. Such a call resonates with current debates about the politics embedded in the private sphere. The Charter was part of a wider call for women's entitlements to health, education, reproductive rights, access to contraception (and later also abortion rights), affordable food, the right to divorce and to gain custody of children, the right to retain access to land, and the right of married women to own property. These calls were taken into the heart of the struggle for a just and free South Africa.

The struggle to end apartheid involved national and internal forces, trade unions, political and faith movements, civic and small-scale organisations, and huge formal organisations. It drew on a veritable storm of continental, international, bilateral bodies and movements, and came to a climax after the unbanning of political leaders and parties and the return of a widely-scattered exile community in the wake of a political rupture in white hegemony in 1990. Between then and the opening of the first democratic parliament in South Africa in 1994, women came to the fore in debates that had hitherto been dominated by calls for racial justice and the need to tackle white domination of skills, tertiary education, the labour market, the institutions of state and, of course, powerful private and state-protected capital entities (Beinart, 2001; Dubow, 2014; Gasa, 2007; 2009; Manicom, 1992: 441-465).

Much more difficult to bring into public discourse were the broader claims of women's movements that questioned gender roles, and the socialisation of men and women in normative frameworks, both heterosexist and patriarchal. Bozzoli's patchwork-quilt of patriarchies had been challenged successfully in law and in Constitutional terms, but in everyday life South African women and men of all ages were thrust into what some social thinkers called a 'performative contradiction', with the gap between de jure and de facto life a yawning chasm.

Given the evidence in religious, cultural and historical contexts, groups as diverse as the Association of Traditional Leaders of South Africa, as well as faith organisations, began to challenge legal and activist and academic scholarship that picked up on South African evidence that gender and sex roles were as much a cause of gender-based harm and violence, as was poverty in South Africa, and that it too led to abrogation of rights.

Individuals and groups in the research cluster included legal, social, medical, economic, artistic, psychological and policy-making experts. Between 1995 and the present day they have called for a rethinking of the roles of men and power in the society, including also the work of 'mothering' in socialisation of boy and girl children, and of the journey of female selfhood in the light of South African history and the saturation of certain gender stereotypes in new media.

The work of a statutory body, the Medical Research Council Gender and Health Research Unit⁸ (which examines the links between gender-based violence and illness or health), and the rise of new social movements rethinking male social roles in alliance with women-empowering organisations, such as Sonke Gender Justice, are just two examples of the new confluence of thinking. Prompting the rethinking of sexual orientation and rights as a basis for sexuality and personhood, national and local gay and lesbian associations and movements formed alliances here and internationally.

The HIV crisis and the high rates of infection amongst not only heterosexual people, but also lesbian, gay, bisexual and transgendered people in South Africa, drew individuals into activism and alliances, as enormous energy and solidarity was generated from fighting both homophobia and sexism as twinned projects.⁹

These movements were not without their tensions and schisms but made visible the rights enshrined in the new South African Constitution, leading to the first homosexual marriages, as well as codification of laws against stigmatisation of individuals on the basis of sexual orientation, new protection of sex workers, new definitions of hate speech and hate crimes, and new discourses of entitlement and personhood. As with other assaults on patriarchy more generally, the backlash in the public domain has included rising and very high rates of violence against black women, particularly black lesbians, and attacks on girls, elderly women and women in intimate and home spaces as well as in the workplace.

These gender-shaped and gender-directed attacks, and threats to attack, reached a crisis in South Africa in 2017. Rape has become a lightning rod for wider social and historical tensions in South Africa (Gqola, 2007; 2015).

In 2013 the Public Affairs Research Institute (PARI) released a commissioned report to the RAITH Foundation and Atlantic Philanthropies, two donor organisations targeting the interface of policy and research in South Africa. The report, authored by Ivor Chipkin and Sarah Meny Gibert, argued that in South Africa social justice entities are “a combination of economic justice, public participation and social cohesion, where a social justice organisation is one working in one or more of these areas”.

One of the major findings of this study, which conducted a detailed survey of nearly 50 non-governmental, civic and community entities in South Africa, and traced the history of the term and uses of social justice here and abroad, is that the roots of social justice are deep in South African history. The review shows that women's entities and groups have been the most likely to promote and advocate for a wider view of inclusive justice. At the very heart of justice in South Africa is a struggle not only for livelihoods, and redress, based on class and racial exclusion, but also for justice within and between intimates and kin-groups. It seems that this can only be achieved with a wider view of justice and rights.

The review suggests that the concept of social justice is neither fixed nor scientific, but rather a term and concept that emerges contingently and out of struggle over time. There are several well cited histories of social justice globally and the review discusses how, in the South African context, social justice emerged particularly in relation to women's groups and women's struggles. Gender-based forms of social justice are still largely tied to this history and these energies and politics.

The Women's Charter in this paper is presented as an exemplary 'founding document' for social justice, and unlike so many other texts of liberation and of utopian radical vision, it is both home grown, rich and contextually relevant.

This section has explored the emergence of moral and political arguments for justice in South Africa after 1910, first taking up the demand for the rights of black men, and then the rights of all women; then more broadly challenges to normalisation of unequal power through the socialisation of men, the rights of gay and lesbian people, and, more recently, a broader definition of sexual personhood.

These stages were not only linked to struggles on the ground but also to new forms of evidence and indicators, geared up to measure social inequality. This section argues that gender is a key lever of global inequality and injustice in South Africa and across the world. By tracing and understanding the ways in which categories of women's oppression have expanded, through engaging in political, philosophical and activist work, and through embracing the term 'gender', and through coming to understand relational rather than biological identities as key issues, space has been made for material, affective and biological aspects of gendered life to come into view.

First women named the parts of their bodies, and then they demanded rights to their own bodies in the domains of reproduction and sex. Thereafter they demanded equal political representation. The next stage was to claim equality in the home and in public work spaces. Thereafter the same rights were claimed for gays and lesbians. More recently there has been a shift to demanding rights to safety, care and sexual intimacy. The entire journey has taken more than a century.

It serves us well to reflect on how long the tradition of exploitation as well as the tradition of resistance has endured. By linking our present inequalities to those of the past we can recognise some of the liberating moments that have already occurred. We can also establish what continues to stand in the way of change, and recognise how some of the struggles for equality have been taken up and absorbed into new forms of oppression.

Gender has always been a lightning rod for oppression, be it through patriarchy, through the persecution of women fighting for equality, or through the criminalisation and harassment of those whose gender identity challenges a heterosexual construction of the world. By the same token gender can also be a launch-pad for change. Yet we need to realise how often the unsettling of gender relations is a basis for oppression, harassment, abuse and violence. The challenge then is to understand the broader context within which we operate, and in which so much oppression and so many abuses occur, and nevertheless be able to celebrate the changes that can be made.





SECTION TWO

Approaches to gender and gender-based violence

Understanding gender

An historical overview creates the platform for understanding how justice and gender have been intertwined throughout South African history. Yet even with its impressive history of charters and declarations and the current Constitution, South African society is still underscored by very high levels of gender-based violence (GBV), which makes much more poignant the struggles for equality. This is the stark reality that is contemporary South African society.

It is important that we understand violence as a gendered construct. Violence can occur between men and women, between men and men, between women and women and in all these configurations across generations. As Connell (2011) reminds us, too much research and policy relies on fundamentally static categorical approaches to gender – two categories of people – men and women, or abuser and abused. How does such an approach compartmentalise our work? We need to understand how to work with women to ‘empower’ them and how to work with men to ‘re-power’ them, so that we can develop new gender understandings and reinforce understandings of social and gender plurality:

The focus on ‘gender’ rather than on women is important. It means a shift away from an exclusive emphasis on women’s disadvantage and difference, to the organisation of gender in all social structures and processes. This implies that we must take account not only of the social construction of ‘femininity’ but also of how masculinity is constructed and inscribed in structures of power and domination (Cock, 1991: 26).

27 April is celebrated as Freedom Day in South Africa, as it marks the day in the autumn of 1994 when the country held its first democratic elections. The election followed 46 years of apartheid and almost 300 years of colonial rule.

On 27 April 2017, some twenty-three years into the South African democracy, Karabo Mokoena was last seen alive. In the hours and days that followed, it is alleged that her boyfriend stuffed her body into a rubbish bin, rolled the bin out of their home, and transferred it to his car. He then drove to his family home, where he picked up a tyre, some acid and a container. Finally, he stopped at a nearby petrol station where he bought petrol (Saba, 2017).

Karabo Mokoena’s burnt body was discovered two days later in the deserted veld in Bramley, a suburb of Johannesburg.

The murder of Karabo Mokoena attracted extraordinary attention in the South African media. On social media platforms, such as Twitter and Facebook, the news of her death led to the widely used hashtag *#menaretrash*, prompting users to describe their disgust at this particular murder, but to also indicate their frustration with numerous other acts of GBV that occur all too regularly in contemporary South Africa.

While Karabo’s death may have received broad media coverage, her murder is by no means unusual. Her murder mirrors the lives of thousands of other South African women. These are women

and girls, but also men and boys, who have been raped, sexually abused, assaulted and killed in what appears to be an endemic phenomenon of GBV.

This section of the *Gender-based Justice* monograph seeks to understand GBV through a social lens. It will demonstrate that GBV can only truly be grasped through a thorough understanding of the socio-political, economic and historic conditions in which it is embedded. We need to understand the ways in which particular ideologies produce and reproduce the structures that enable GBV.

Increasing attention is being paid to the social drivers or social forces that create the conditions for GBV. To address such social drivers a strong CSO response is needed to ensure justice and equity and to highlight how such social drivers can be addressed. For many years people have wanted to identify effective social level or ‘structural’ interventions that can be rapidly deployed to address GBV. However, Auerbach *et al* (2009) suggest that the arsenal of structural interventions – or more generally evidence-based and evidence-informed strategies of social change – is quite small. Two processes need to occur: firstly there needs to be better development and mining of basic social science that underlies sound structural intervention design, and secondly there needs to be a better explication and adoption of research methodologies that can effectively develop notions of causality and assess the nature of social-level change.

Social drivers believed to define and characterise GBV such as poverty, sexualities, poor access to food, housing, water, education, power and gender relations are all context specific and can vary from one region to another, from one province to another and from one community to another. Social drivers do not operate universally in a single way with respect to who might or might not be vulnerable to GBV or exploitation. They are rather a reflection of social arrangements and expectations regarding under which conditions people behave in particular ways. In this way, social and contextual dimensions are essential to understand what may or may not be effective in addressing and understanding GBV.

Protected on paper

It has been apparent for some time now that there is a widening gap between the lived lives of ordinary South Africans and the rights that are promised to citizens in the South African Constitution and in other legal frameworks, as collated in the Appendix. This gap, which Pithouse (2016:43) refers to as “only protected on paper”, has prompted a series of questions and critiques that speak to both the real and imagined forms of citizenship that have emerged in post-apartheid South Africa. Among the most pressing of these issues is that of the state and civil society’s understanding of and interventions regarding GBV and violence against women and children.

The notion of violence has long been one of the most central themes in the theorisation and analysis of womanhood and gender. These violent acts have taken myriad forms across the world. Ranging from domestic abuse, rape as a weapon of war,

female genital mutilation, and honour killings to corrective rape, arranged and forced marriage, and human trafficking, GBV has long been present, but it is only in the last century that shifting understandings of human rights and personhood enabled the concept of gendered violence as an act of violation.

It is partly as a result of this fluid nature of GBV – the way it has shifted throughout history – that narrowing the concept to a single fixed definition is nearly impossible. GBV is anchored, on the one hand, in the particular hetero-patriarchal ideologies that have dominated large parts of the world over the past centuries. It is also, however, a concept that is embedded within the particular socio-political and historical conditions of any given community, and South Africa is no exception.

In South Africa GBV has been intimately linked to the specific ways in which race, class, and gender were constructed as a result of colonialism and apartheid. Gender dynamics take specific forms in colonial and post-colonial contexts (Connell: 2011:107). According to Connell, colonialism itself was a gendered act, carried out by imperial workforces (overwhelmingly men) drawn from masculinised occupations. Rape of women in colonised societies was part of conquest. Brutality was built into colonial societies, and the restructuring of gender orders of colonial societies was also a normal part of the making of colonial economies – incorporating men into imperial economies as slaves, or as indentured or migrant labour (Ibid), and in the process creating inhumane and demeaning treatment of men, the effects of which are felt today in masculine anger and violence.

Despite the influences of colonialism and apartheid on the particular spatial, cultural, and societal structure of South Africa, the South African state is yet to formalise an own understanding of GBV. The state also has never clearly and unambiguously defined what is meant by the term GBV or, as it is often used by the South African government, violence against women and children.

Regardless of the specific set of circumstances in which an act of GBV is committed, it is important to emphasise that GBV does not only refer to physical violence, but rather to a set of violent actions or threats which may include physical, emotional, sexual, psychological or other violations. D'Cruze and Roa (2005: 5) note that defining violence is a difficult task. Feminist scholars in particular have been concerned with efforts that seek to narrow and limit the definition of 'violence'. Attempts to define and describe violence, particularly those forms of violence that result very directly from hegemonic power relations, are made more difficult by the interconnectedness of different forms of violence.

When a person experiences sexual, emotional and economic violence – sometimes overlapping, while at other times not – it becomes difficult to demarcate and understand the precise and intimate ways in which these abuses speak to and inform one another. Yet, it is crucial that we describe and define what is meant by GBV, even if such an attempt can never provide a fully holistic and inclusive definition.

In light of this lack of a localised definition, but also in conversation with a global discourse of human rights and GBV, it is helpful to turn to the definitions that have been outlined by other bodies and that are often used by civil rights organisations. One of the

most widely used definitions of GBV is that of the United Nations Declaration on the Elimination of Violence against Women (1993) which states that:

Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life ... Violence against women shall be understood to encompass, but is not limited to the following: physical, sexual and psychological violence occurring in the family and in the community, including battery, sexual abuse of female children ... dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation ... sexual harassment and intimidation at work, trafficking women and forced prostitution ... and violence ... perpetrated or condoned by the state.

The 1995 Beijing Platform for Action expanded on this definition, specifying that violence against women includes: violations of the rights of women in situations of armed conflict, including systematic rape, sexual slavery and forced pregnancy; forced sterilisation, forced abortion, coerced or forced use of contraceptives; prenatal sex selection and female infanticide. It also recognized the particular vulnerabilities of women belonging to minorities: the elderly and the displaced; indigenous, refugee and migrant communities; the disabled; and women living in impoverished rural or remote areas, or in detention (UNFPA, 2013: 6).

It is noticeable thus far that these and many other definitions of GBV are strongly focussed on violence against women and children. This is hardly surprising as the majority of GBV is committed against women and children. The UNFPA (2013) elaborates on the vulnerability of women and girls as follows:

Women and adolescent girls, not only are they at high risk of GBV, they also suffer exacerbated consequences as compared with what men endure. As a result of gender discrimination and their lower socio-economic status, women have fewer options and less resources at their disposal to avoid or escape abusive situations and to seek justice. They also suffer consequences [in terms of their sexual and reproductive health], including forced pregnancies, unsafe abortions and resulting deaths, traumatic fistula, and higher risks of sexually transmitted infections (STIs) and HIV.

While it is significant that women and girls are often more vulnerable to GBV, it is equally important to extend our understandings of GBV to include men, boys, and gender non-conforming persons.

In a description that includes these individuals, Bloom (2008: 14) describes GBV as "the general term used to capture violence that occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between the two genders, within the context of a specific society".

Bloom points out an important aspect of GBV in this description in highlighting the notion of normative gender roles and the expectations attached to these roles. GBV, when seen in this way, does not only extend to women and girls, but to any violent act or threat that is underpinned by a person's gender identity or the expression thereof, or by sexual orientation.

Emphasising the idea of normative gender roles is of dual importance in this regard. It firstly points to the fact that GBV is not necessarily tied to the idea of the biological female but rather to that of ideologically supported gender roles; it secondly underlines the importance of grasping the ways in which binary gender categories have been constructed to reproduce and reinforce very particular relations of power.

It is useful to turn to some of the theories that allow us to understand the construction of masculinity and femininity before continuing to explore the particular social dynamics that have assisted in the construction of these concepts in South Africa.

Sexualities, sex, genders and violence

South Africa (Connell: 2011:103) is a world leader in the principle (emphasis added) of gender equity. We have a constitution that protects sexual rights and identities and emphasises the need to provide social, economic and cultural rights. This gives South Africans the task of building an understanding of social justice and GBV that is transformative for the world we live in. We need, Connell suggests, to improve on the ways we have understood gender and GBV and social justice. What we need to have is a sense that in addressing GBV we are looking at the complex interplay of different genders, sexualities and forms of masculinities, and we need to investigate the ways in which the gender norms that society overlays on this affects how we can address social justice and gender-based abuse, harassment and violence.

Over the last thirty years, Weeks *et al* (2003: 43) suggest, there have been remarkable shifts in the ecology of gender; a shift that can be seen both ideologically and in the economic and social basis of gender. It is certainly true, as Butler (1990) also points out, that there has been an increased awareness of the performative nature of gender – the arbitrary idea that there are two essential and primordial genders. It is true, of course, that the latter half of the twentieth century saw remarkable shifts and changes with regard to the rights and recognition of women, gender non-conforming persons and LGBTI persons.

The last two decades have been particularly indicative of these shifts. A substantial number of states, including South Africa, have legalised same-sex marriage; states allow transgendered persons to officially change the gender assignment on their identity documents; and some states even offer the possibility of identifying oneself as non-binary.

Yet, the everyday living conditions and the lived reality of many women, men, children, who are transgendered or LGBTI persons remain abysmal.

The concepts of sex, gender, and sexuality are closely interrelated. Sex, in this instance, usually refers to the biological features, both chromosomal and anatomical, that are used to differentiate

between males and females. As is indicated in the section that follows, sex is often conflated with gender. The idea that sex can be conflated with gender has brought about the construction of the so-called 'gender binary'.

To grasp the ways in which GBV is enabled and reproduced by certain ideological structures, it is useful to turn to the construction of gender identities. Weeks, Holland and Waites (2003:2) comment on an approach to gender and sexuality that views it as 'natural'. This view, they continue, represents the spirit of the Enlightenment, which promotes science and rationality, and does not recognise how history and culture has contributed to and shaped our understandings of these concepts.

It is this aspect of gender and sexuality that is highlighted in this section. In the subsection that follows, the ways in which ideological structures have enabled a certain understanding of gender to remain dominant are explored.

It should be emphasised that gender is not neutral, nor is it ahistorical. The meanings that we attach to our understanding of gender have changed and shifted through time. If we come to recognise that gender is a relationship (Connell, 2011:106) and we recognise that critical problems surround this very complex relationship, we cannot use effectively the kind of policy discourse in which 'gender' becomes a synonym for 'women'. GBV is a relationship of violence between two people, one of whom may be stronger, one of whom may be weaker, but it is not about 'being a man' or 'being a woman'. Rather, it is about the complex context in which two people are caught up in destructive and painful ways.

The view that binary gender identities – which are often conflated with sexual orientation – are 'natural' is closely related to the supposed 'natural' features that differentiate women from men. The most significant of these is based on the woman's reproductive capacity. The idea of gendered differences, and the way it has produced a hierarchal view of gender, is addressed by Sherry Ortner in her 1974 essay, 'Is female to male as nature is to culture?' Ortner speculates that one of the reasons for the fact that women have been considered inferior to men is that women are considered closer to nature, while men are associated with culture.

The association with nature arises from the fact that women give birth to children, so that they are not only considered physiologically closer to nature, but their social role as nurturer positions them as seemingly closer to nature (Ortner, 1974: 74). This comparison, which suggests that women are closer to nature and are thus less human than men, is one that has often been drawn in social and political theory. The view that women are 'naturally' better suited to raise children has consequences outside of the domestic sphere.

Indeed, growing research on masculinities and men, studies of men's sexuality and violence, and on the patterns of gendered relationships among men strengthen our thinking about how masculinities operate in a broader structure of gender relations (Connell, 2011:106). Research on studies of women's sexualities and violence, and the patterns of gendered relationships among women also serve to strengthen our thinking about how femininities operate in a larger structure of gender relations.

In discussing the concept of hegemonic masculinity, Morrell (1998: 608) explains how a particular version of masculinity holds sway even though it coexists with a number of other masculinities. This version of masculinity, Morrell continues, bestows power

and privilege on men who espouse it as their own and enables both the oppression of women and the silencing of other forms of masculinity. Hegemonic masculinity, Connell and Messerschmidt (2005: 832) argue, can be understood as the pattern of practices that allow men's domination over women to continue. Among the other defining features of hegemonic masculinity are "misogyny, homophobia, racism and compulsory heterosexuality" (Morrell, 1998: 608).

Therefore, while many other forms of masculinity exist, and continuously shift and adapt, it is this version thereof – hegemonic masculinity – that is most important within the universal context of GBV. It seeks to naturalise itself while marginalising other forms of masculinity. It also aims to forcefully, and often violently, reproduce very specific forms of femininity. This is a femininity that speak to Ortner's notion of female persons as less human and closer to nature. It is also a version of femininity that sees women as inferior to men and without any social or political agency.

At its core hegemonic masculinity imagines itself as in the centre of the universe. Unlike those who dissent from its ideological basis – women, LGBTI persons, men who fail to adopt this form of masculinity – persons who have internalised hegemonic masculinity have subjective agency and, importantly, have the power to structure their world to meet their own desires.

However, powerful groups will resist ideas and policies that are perceived as redistributing their power. Dominant groups tend to perceive as attacks calls from the dominated and from those who support them to bring about social change (Kometsi 2004: 26). Challenging men to change not only addresses their position of ascribed privilege, but can also be seen as challenging an important aspect of their identity. Because personal identity is so heavily gendered, any threat to sex/gender categories is derivatively interpreted as a threat to personal identity. A threat to manhood (masculinity) is a threat to personhood (*Ibid*).

Foreman (2000) talks about the fear that men experience in endeavours that endorse women as being socially on a par with men in society. Self-imaginings and performances of masculinity are predicated on a belief in the essence of femininity. As the masculine constructs itself, it co-constructs the feminine. In a binary gender system, the unwarranted perception is that where 'real' masculinity fails, femininity takes over (Kometsi 2004: 27).

The notion that South Africa is 'the sexual assault capital of the world' has evolved into a trope that is regularly recited in discussions on GBV in the country. Clearly something is amiss. Despite the remarkable progress that has been made in terms of legislation and policy acknowledging the rights of sexual minorities and gender non-conforming individuals, and regardless of the perceived ground that has been won by those advocating equal rights for women and girls around the world, the numbers of individuals who are affected by GBV remain astonishingly high.

The fragmented social

There is a seeming contradiction that frequently surfaces in discussions about GBV, rights and justice. There is, on the one hand, the humanistic appeal to universal rights that would allow for all human beings to share in the same sets of rights and privileges. On the other hand, there is the call to anchor these rights within the local. In a less abstract form this tension could also be seen

as that between theory and the day-to-day lived lives of those to whom this theory applies. While it is certainly true that this tension has long been one of the issues that those who work in the field of social justice have struggled with the most, it is not an insurmountable tension. We should not view these two positions – that of the universal and the local – as contradictory, but rather we should understand them as existing in a dialectical tension. Such a dialectical tension enables us to imagine the possibility of a synthesis – as the final section of this monograph shows – rather than an impasse between two contradictory concepts. However, before reaching any kind of synthesis, it is necessary to expand our understanding of gender and gendered relationships even further. The previous section spoke to the ways in which gender has come to be considered a social construct. Like sexual orientation, gender is seen to be the product of various ideological constructions that uphold certain power structures in society. How gender is constructed and thought of only tells half the story of GBV in our society. Much of the rest of this story is found in the broader structures of our society and the social drives that enable GBV.

The topic of one's gender and sexuality is often considered to be private. Even referencing these issues has been, and continues to be, taboo in many spaces. However, men and women's relations are not only produced and lived out in private spaces. Characteristics of the broader society also influence, as they are influenced by, what happens in personal or private spaces, regarding the often violent ways in which tensions in 'private lives' are played out. Jewkes (2000) says:

In South Africa rape and sexual coercion form one part of the broader problem of gender-based violence which pervades society ... one of the consequences of decades of state sponsored violence of apartheid and colonialism (with armed resistance) is that physical violence has become for many people a first-line strategy to resolve conflict and gain ascendancy (Jewkes, as quoted by Kometsi 2004: 32).

Statistics show that the current levels of GBV in South Africa, regardless of whether or not the physical act of violation occurs within an intimate or domestic relationship, are so significantly high that we can hardly consider this to be anything but a societal problem. While statistics vary, research conducted by Gender Links found that up to 77% of women in Limpopo and 51% of women in Gauteng have experienced GBV in some or other form (Gender Links, 2012). These numbers are confirmed by another study, conducted by the Institute for Security Studies (ISS), which found that more than 50% of women in Gauteng have experienced intimate partner violence. Alarming, more than 80% of the men who partook in this research reported to have transgressed against their intimate partners (Institute for Security Studies, 2011).

As the South African government itself notes, it is hard to determine the specific number of instances of domestic violence as domestic violence is not considered in and of itself to be a criminal category (Parliament of South Africa, 2013). The same is true of various hate crimes which makes it hard to determine, for example, how widespread instances of homophobic attacks are. This means that the motivation for an act of violence is not necessarily recorded by the police. If a lesbian woman is murdered, for example, a case of murder will be opened without

any specific reference to the fact that the crime was motivated by a belief, for example, in heterosexuality or that the crime was intended to 'correct' some form of sexual or gender transgression.

In order to illustrate the complex 'price' of GBV, but also to demonstrate the complicated social relationship in which victims and survivors of GBV often find themselves, the notion of the 'human economy' provides a useful means of understanding (Hann & Hart, 2011; Hart, 2013; Hart, Laville, Cattani, 2010). Hann and Hart (2011: 8) describe the human economy as referring "to wellbeing, to the satisfaction of all human needs — not just those that can be met through private market transactions, but also the need for public goods, such as education, security and a healthy environment, and for intangible qualities such as dignity that cannot be reduced to dollars spent per capita".

They argue for a human economy that speaks to persons (and not simply individuals) whose choices are motivated both by 'rational' calculations, but also by the familial, social, and political contexts in which they are embedded (Hann & Hart, 2011: 9).

It should be clear at this point that throughout this text there has been a return to the idea of the social: a human rights approach that seeks to understand justice through understanding the social; a contextualisation of GBV that is centred on the socio-political and cultural; the idea that gender and sexual identity are constructed through social mechanisms; and, finally, the idea of a human economy that takes into account the familial, social and political contexts in which people live. In South Africa, the social continues to be deeply influenced, in different ways, by the legacy of colonial and apartheid rule. This includes a wide range of socio-economic conditions: from the unequal distribution of economic capital to the fragmented nature of family life that the migrant labour system brought about.

Genders are not only in a relationship with each other but they are also in a relationship with the state, with institutions, and with families and households, and each one of these relationships will affect the other. Gender is not a seamless belonging or a neat identity. It is a constantly contested terrain with shifts and changes and influences that affect how various gender relationships work for individuals as well as for communities.

Yet, the social cannot be understood without being thoroughly embedded in the contexts of apartheid and pre-apartheid South Africa. The political system of apartheid officially ended in 1994. Despite the familiarity of the term in the context of South African politics, Dubow (2014: v) remarks that apartheid resists any easy definition. Apartheid was a political system, officially implemented after 1948, that sought to segregate South Africans in terms of race and ethnicity. It carried, Dubow (2014:10) notes, an additional moral and spiritual imperative.

South Africanist historian Herman Giliomee describes apartheid as having rested on several bases. These included "political apartheid restricting all power to whites, the enforced separation of existing communities, segregated education, protection for whites in the labour market, and influx control that restricted African movement into cities. The sixth base, which was the ideological cornerstone, was the setting aside of special land areas called reserves for African residency, later renamed black or Bantu homelands, or Bantustans for short" (Giliomee, 2009: 500).¹⁰

In South Africa the politics of gender equality were closely connected to the struggle against apartheid which, as many researchers have suggested, was in itself a form of patriarchy.

It was then tied to the attempt to create equality norms for a post-apartheid society and struggle against the creation of a new kind of patriarchy. What we now understand is that this gender relationship takes specific forms in colonial and post-colonial contexts and gendered violence played a formative role in how the post-colonial, post-apartheid state was shaped. In addition, as Kopano Ratele (cited in Connell: 2016:42) has noted — the careless — though widespread — assumption that 'traditional masculinity' means only patriarchal masculinity ignores non-patriarchal masculinities that support respectful and non-violent relations with women. Non-patriarchal masculinities have traditions too and in the past gendered societies were not monolithic. In addressing how, a social justice lens can allow us to see gender relationships in a society. Historically and going forward we need to build on such traditions and reinterpret such social and gender interactions.

As Julian Brown (2015: 148) argues, South African society today has inequality at its core. Of course this does not mean that the only existing inequality is racial inequality. Gibson (2011: 73) rightly notes that it is quite plain to see that there is a telling correlation between race and economic class in South Africa, with the majority of those classified as poor or very poor being black Africans. Two decades after apartheid, Brown (2015: 1) writes, South Africa is once again in flux, at a moment where the boundaries of politics and society are unstable and can change without much notice. Others, too, have observed how the political moment in South Africa is caught up in politics of protesting, the visibility of social movements, and attempts by citizens to make sense of the enormous wealth gap between the country's upper classes and the poor (Gibson, 2011; Makhulu, 2015).

Despite the significant changes — political, economic, and social — that South Africa has undergone since 1994, as Gibson argues (2011: 72), the "exclusivity of heavily guarded colonial spaces that Fanon describes has probably increased since the ANC came to power". Racial classification persists, gated communities and private security companies separate the rich and the poor, and poverty has remained as high as it was during apartheid (Gibson, 2011: 71-73).

In 2014, 21.7% of South Africans were unable to afford the most basic nutritional requirements, 37% of South Africans could not afford both food and non-food items, and 53.7% of South African citizens were able to afford food and non-food items but still fell under the widest definition of poverty and depended on an average income of less than R800 per month (Statistics South Africa, 2014).¹¹ There is widespread acceptance that malnutrition is part of a vicious cycle of poverty, under-development and lack of education.

Finally, it is necessary to address the role of the state and the relationship that exists between the South African state and its citizens. Genders are not only in a relationship with each other but they are in a relationship with the state, with institutions, with families and with households, and each one of these relationships will affect the other. Gender is not a seamless belonging and neat identity. It is a constantly contested terrain with shifts and changes and influences that affect how various gender relationships work for individuals as well as for communities. The "imagined community" of post-apartheid South Africa, Reddy (2011: 27) remarks, "directs us to the renegotiation of citizenship in the context of factors which divide us, such as race, ethnicity, language, class, location, gender and sexual orientation".

Citizenship, he continues, becomes an important marker in the relationship that is engendered, through the context of the rights and obligation that accrue from the constitution, between the individual and the state. In this way GBV is intimately linked with citizenship and governmentality. The conditions under which these acts of violence occur and are enabled by are, as we have seen in this section and will be further demonstrated in the next, are entwined with the political in a manner that makes it impossible for us to contemplate the issues regarding GBV without extending our grasp thereof to other spheres.

There is a seeming contradiction that frequently surfaces in discussions about GBV, rights and justice. There is, on the one hand, the humanistic appeal to universal rights that would allow for all human beings to share in the same sets of rights and privileges. On the other hand, though, there is the call to anchor these rights within the local. It is argued that we view these two positions – that of the universal and the local – not as contradictory but that we understand them as being in a dialectic tension. Such a dialectic tension would enable us to imagine the possibility of a synthesis rather than an impasse between two potentially contradictory concepts.

One way of thinking about this synthesis is to recognise and understand not only how GBV can often be prevented, but also how local organisations have responded to it. GBV starts with addressing sexual and gender harassment whenever it occurs, because harassment unchecked can lead to abuse, and abuse unchecked can lead to violence, and violence leads to immense personal and social suffering and dislocation.

Many civil society organisations are working with men and women to try to address the root causes of such violence in South African society. Excellent work has been done to address the patterns of violence that confront society and to support people who have experienced violence. Substantial research has been done regarding the ways in which violence develops and the steps that can be taken through laws and society to address it. Despite this, levels of harassment, abuse and violence remain high and the statistics for rape, corrective rape, abuse, violence and murder are an indictment of our society and how we have failed to facilitate social, political and economic change to address this issue (see Vetton, Jewkes, Morrell and others). Much like the relational nature of gender, of the state and citizenship, and of hierarchical power structures, these different forms of sexual and gendered transgression are always in relation to one another.

Using the lens of social justice we can see how the gender and social norms that are deeply embedded in society affect how we can think about, talk about, and develop new narratives about gender equity and gender relationships. This lens can also help us understand the power structures that underpin a binary understanding of gender and recognise the ways in which this enables the reproduction of certain social hierarchies. Despite the remarkable gains that have been made in the last five decades with regard to the dismantling of patriarchal systems and recognition of those who do not feel comfortable within binary gender categories and the norms that are attached to it, the day-to-day lives of many people (both in South African and elsewhere) reflect little of these theoretical insights into

gender. For many individuals any construction outside of a male/female binary is nearly unimaginable. The fact that our society at large is complicit in keeping this binary intact – together with the norms that it prescribes – has far-reaching consequences. Subscribing to conventional notions of gender and sexuality ensures that patriarchy is upheld. By extension, this means that men are granted agency and women, to some degree, remain disempowered.

We are all cognisant of the ways in which young people are socialised into social and gendered roles and norms. As Bourdieu (1977) suggests, we learn these norms and roles through a process that he refers to as *habitus*. *Habitus* exists in, through, and because of the practices of agents and their interaction with one another and their environment: ways of talking, walking, and acting. *Habitus* may even be as far-reaching as the way that someone looks or their taste in music. Bourdieu (1977: 95) further defines the term as “an acquired system of generative schemes objectively adjusted to the particular conditions in which it is constituted”. *Habitus* is a set of dispositions and internalised possibilities that allow individuals to orientate themselves with regard to the social world. However, the habitus that Bourdieu (1977: 72) refers to is not merely produced by objective material structures but, just as social structures produce habitus, so habitus in turn reproduces structures. This means that while young people are socialised into adopting and naturalising certain gender norms, these young people themselves go on to produce a social world which reflect these norms.

This is a complex and often confusing terrain and the multiplicity of gender norms is one of the most important points to recognise. This is important in the quest for gender justice and as we have called the monograph, the creation of *gender-based justice*. Gender-based justice looks at all the competing and intersecting gender belonging and identities and how they come to make up the societies in which we live and in which we need to strengthen our commitment to and adherence to notions of gender, social and human rights justice.

Protest Violence Against Women
WOMEN UNITE!
TAKE BACK THE NIGHT



SECTION THREE

Towards social justice in South Africa

While human rights do not provide any magic bullet to solving social and economic injustices, the framework of human rights can channel social justice activism in ways that are beneficial to alleviating unnecessary suffering (Chong 2015: 19).

Recognising anger

The year 1948 is doubly significant for South Africa: it is, as stated in this monograph, the year in which the Universal Declaration of Human Rights (UDHR) was adopted and it is also the year that the National Party (NP) was voted into power by the white electorate, thereby setting the country off in the opposite direction to most other post-war countries in terms of human rights norms (Black, 2004:79). The post-1948 government was responsible for a multitude of increasingly systematic human rights violations in the course of initiating, elaborating and defending the system of apartheid, the effects of which are still being felt in South Africa in 2017.

It is worth stating again that South Africa remains one of the most unequal societies in the world: a society in which millions suffer deprivation, social and economic abuse, in which there is high unemployment, limited access to development and very high levels of protest and anger. Quoted in *The Telegraph*, Graça Machel, the human rights activist and the wife of Nelson Mandela, warns that South Africa is an “angry nation” teetering on the brink of “something very dangerous” if extreme levels of violence in the country are not addressed (Laing, 7 March 2013). In the same article, William Gumede is quoted as stating that South Africa is in the midst of a “perfect storm” of economic factors, with a historically wounded society and continuing social violence.

Oxfam has commented that today in South Africa inequality is greater than at the end of apartheid. The consequences of this are corrosive: “Extreme inequality corrupts politics, hinders economic growth and stifles social mobility. It fuels crime and even violent conflict. It squanders talent, thwarts potential and undermines the foundations of society,” (Oxfam as quoted by Kings, 31 October 2014).

Dealing with this anger and the social, community and person ramifications that stem from it underpins social justice. Social injustice fuels feelings of dislocation, exclusion, betrayal and in the face of extreme poverty and deprivation this sense of injustice spills into violence and anger. While there is no one fixed definition of social justice, the notion of social justice coexists with expressions of human rights, fairness and equality (Nelson *et al*, 2012:3). In the language of social transformation, social justice calls for everyone to benefit equally from participating in the socio-economic activities and social institutions of a society – social justice is the move towards the redistribution of social wealth, other social amenities and a more equitable socio-economic system (Tjabane & Pillay, 2011:12).

Nelson *et al* (2012: 4) argue that in *A Theory of Justice*, Johan Rawls attempts to reconcile freedom and equality, and seeks to describe ways of achieving just social structures, stressing that civil arrangements need to be in place to support this. Rawls talks about the liberty principle, in terms of which each person should have an equal right to an extensive range of equal basic liberties. He adds to this the equality principle, in terms of which social and economic inequalities should be arranged so that they are of the greatest benefit to the least advantaged (Nelson, 2012: 4). In contrast Amartya Sen suggests that social justice is an ongoing task that has to be understood not so much in terms of what

has been achieved but in a particular context. It is important to consider our understanding of what a just society really entails and how groups within a society might access democracy.

A chaotic nightmare

Writing on the post colony, Achille Mbembe (2001, cited in Gqola 2007: 113) talks about a chaotic nightmare, and in the context of GBV and social and political reactions, this is the experience that we face. We have a society that is underscored by violence, anger and disillusion. As discussed, this is the legacy of apartheid, but it is also a product of the failure of the state post-1994 to create an inclusive economy and employment; to address housing, water and sanitation; to develop an education system of excellence; and to move to address the ways in which historical legacies of colonialism and apartheid still haunt our day-to-day lives, affect our wellbeing and restrict development.

In 2015 the UN Special Rapporteur on Violence against Women, Dubravka Simonovic, warned that deeply entrenched patriarchal attitudes made violence against women “an almost acceptable phenomenon” in South Africa, and urged the South African government to strengthen its fight against GBV through awareness and education at all levels of society.

Stressing the need for change, she said, “despite an arsenal of progressive laws and policies to deal with GBV put very ably in place, there has been little implementation, hence impact and GBV continue to be pervasive and at the level of systemic women’s human rights violations,” (Crewe *et al*, 2016:36).

In the report cited above many civil service organisations (CSOs) expressed concern that respect for human rights was seen as less important in South Africa now than it had been in the past. Although all people claim to support such rights, there is less determined action to ensure that human rights are respected and enforced. It is best described as passive support, rather than active engagement (Crewe *et al*, 2016:31).

How then might we effectively address GBV and achieve gender-based justice in a society as wracked by injustice, contradictions and stereotypes, and filled with silences as ours? Which interventions should practically constitute our response and how are such interventions to be situated within the broader range of other social, economic and political domains?

South Africa has started to develop, but still needs to strengthen, cogent understandings of the social dynamics that create the conditions for GBV. We know little about how individuals move between social terrains, the different identities they use and the transactions they perform to take control of their lives. All too often understanding is pegged in descriptive categories, but lacks rigorous analysis. We are adept at describing our society but less able to understand it. Can we develop ways to understand how members of our communities culturally and socially process a phenomenon as complex and as multi-faceted as GBV, or understand the social and political domains in which the response to GBV has been, or is situated?

Existing on crippled conditions

A core insight of social justice (Gostin & Powers, 2006:1054) is that there are multiple causal pathways to numerous dimensions of disadvantage – this includes poverty, sub-standard housing, poor education, and unhygienic and polluted environments. Inequalities beget other inequalities and existing inequalities compound, sustain and reproduce a multitude of deprivations (Gostin & Powers, 2006: 1054).

Social justice encompasses not only a core commitment to a fair distribution of resources, but it also calls for policies of action that are consistent with the *preservation of human dignity* and the showing of equal respect for the interests of all members of the community (Gostin & Powers 2006:1059).

As a project the South African Constitution describes how we *should* relate to one another, what we *should* be able to assume and invest in one another, and what the notion that we are all entitled to freedom really means (Gqola, 2007:113). The South African Constitution protects the complementary rights to equality, human dignity and freedom, and underpins the overall reconstruction of the South African economic, social and political order (Ngwenya & Cook, 2004). In addition to the right to health, the right to food, the right to social security and assistance, and the right to gender equality are all fundamental to realising the Constitution.

As social justice has to do with how advantages and disadvantages are distributed in society (Millar as quoted in Chipkin and Meny-Gilbert, 2013:12) we should be concerned with the ways in which a range of institutions and practices together influence the share of resources available to different people. In this way social justice acts to define a special form of fairness and its opposite, unfairness. It focuses on what institutions must do for citizens and the ways in which unfairness, exclusion and deprivation can be addressed. Unfairness, deprivation and exclusion all lead to particular forms of violence and protest and in this chaotic nightmare of competing demands, unmet expectations, poverty, hunger, disillusionment and anger, people get caught up in spirals of domestic violence, pain and abuse. According to Miller, social justice is a realistic attempt to bring the overall pattern of distribution in a society in line with the principles of the society.

This need to understand how we can act to effect change was recognised by Plato who argues that we need personal and social understanding and structuring of both individual character and the social order to prevent the commission of great social injustices. Cicero speaks about those “existing on crippled conditions” and he and Plato recognise the nature and pursuit of individual and social justice to achieve the “greatest happiness of the whole,” (Cragg, 2013).

Writing in 2008, van Broembosen and Davis comment that in poor communities there is a growing disillusionment and frustration at being treated unjustly: crime and a lack of delivery in critical areas such as education, housing and health provision are just some of the factors fuelling this discontent. They argue that the new

challenge is the achievement of social justice as set out in our Constitution. After over two decades of democracy this challenge remains unaddressed.

Human rights and social justice: The in(di)visible link

In 2015 Amnesty International Netherlands published a collection of essays discussing whether or not human rights bring about social justice. What are the conceptual and strategic issues related to the links between human rights and social justice? What do human rights have to offer in the struggle for social justice? (Lettinga and Van Troost, 2013: 10). How does the human rights framework in which much of the gender activism has been based open space for social justice to be applied in the campaign for gender-based justice?

The goal of underpinning our work with a human rights and social justice foundation is the realisation of a world in which everyone lives with dignity, freedom, justice, equality and peace (Advocates for Human Rights, 2013: 9). This is a world where:

Every individual and every organ of society shall strive by teaching and education to promote, respect for these rights and freedoms ... to secure their recognition and observance (14)(UDHR 1948).

Human rights require that in working with communities the requirements to *respect, protect and fulfil* rights guides our work. What are we required to do to ensure that rights are respected, but that people are all afforded the respect that they deserve? What are we required to do to protect rights from abuse and transgression, but also to protect those people whose rights are not currently protected? How do we act to bring pressure to bear on our social and political institutions to ensure that rights are realised, and that all people are fulfilled when they seek to act on their rights and to live a life of dignity?

Influence and changing

Much of the human rights work in the past has looked at rights and operated from the notion of violation of rights (Casla, 2015: 36). How do we gain redress for people whose rights have been violated? How does the violation of one right affect the realisation of other rights? What is it that makes people in our communities particularly at risk for human rights violations and how will social justice help in securing human rights?

It seems that it is time to move away from the violations approach to a new form of social advocacy. We need to shift from what Rath would call ‘naming and shaming’ to a notion of influence and changing. By focusing too much on a violations approach, we may be missing important social and political opportunities to strive for the progressive realisation of economic, social and cultural rights.

Mchangama (2015:53) suggests that what the human rights movement has succeeded in doing, is providing a basic framework for all those in civil society who care about poverty, health, education and violence to use to campaign, disseminate ideas, hold leaders accountable and ultimately achieve social change. As such, he argues, human rights activists help provide the platform for social justice activists who can use their skills and expertise campaigning for their vision of the good society.

It has been said that civil and political rights have been seen as of greater import than social and economic rights, i.e. seen as second-order rights. What social justice advocacy seeks to do is to merge the two and, learning from the violations approach, apply the rules of the political game to get the most out of the realisation of economic, social and cultural rights. It is in the failure to provide these rights that many roots of GBV take hold and thrive.

The South African human rights approach that underpins much of our work creates firm foundations for social justice. There are good arguments for combining human rights with an expansion of our calls for social justice. In the first place a human rights approach takes into account considerations of justice, fairness and accountability that go beyond the policy decisions and a limited set of actions. Economic and traditional factors are also included.

Secondly, a human rights approach creates sound and sustainable programmes by considering and understanding the root causes of human rights violations and how it is possible to protect those most at risk. Third, human rights offer legal clarity about basic rights and freedoms through the law and protocols.

Fourth, human rights give an authority for action backed by activism and agents for change. Fifth, they call for greater accountability from governments at local and national level. Sixth, they create connections in that dealing with the violation of one right highlights the violations or fulfilment of other rights, and finally human rights allows for the vision of transformed communities and a changed society.

However, while we have the tools to address human rights violations and to understand what needs to be done, there are also barriers that we need to overcome in order to be effective. In calling for human rights, governments are often slow or reluctant to put programmes in place to change long-established patterns of behaviour and social injustice. Governments often lack the flexibility to move quickly and effectively, corruption hinders progress, and many government officials are reluctant to effect change for fear of escalating demands. In addition, the people on whose behalf rights are being addressed can also create barriers through a fear or distrust of authority. Lack of access to government offices and health services may also be a barrier. Marginalised groups may feel powerless and excluded. Cultural practices can prevent full expression and participation. Finally, people may feel they lack the right expertise to address social injustice, and they may fear reprisals from political structures or from other community members.

Analysing the root causes of human rights violations requires that we are able to identify the immediate causes: the needs that are not being addressed and the human rights violations that occur. Then we need to examine the policies, laws and resource constraints that lead to unmet needs and rights violations, and we need to recognise and understand the social drivers, cultural forces and political and economic systems that perpetuate unequal laws and rights violations (Advocates for Human Rights, 2013: 153ff). We need, in other words, a system of rights that is underpinned by social justice and the recognition that while recourse to justice is one route, activism for social justice is another.

Crucial to an active GBV citizenry is advocacy to address inequality through both government interventions and local initiatives, including community-based organising and advocacy.

Achieving social justice

There is a renewed belief that social justice is possible and that it will offer new hope to communities which are marginalised and oppressed. Often communities feel disappointed by the justice system. Human rights seem to be buzzwords rather than a viable way to transform lives. Social justice allows for a transforming notion of change, rather than one which is based on wrongs and redress. Human rights is often about righting violations, while social justice is about creating the space in which such violations struggle to develop. According to Cramme and Diamond (2009: 3), the term social justice covers the “relative distribution of rights, opportunities and resources within a given society; and whether it deserves to be regarded as fair and just”.

Social justice advocacy does not lend itself to a single approach. Paul Farmer (2005: 157) believes that “people who work for social justice regardless of their own station in life, tend to see the world as deeply flawed. They see the conditions of the poor not only as unacceptable but as the result of structural violence that is human made”. Social justice work involves addressing economic inequality and social marginalisation as if they were human rights violations, rather than unfortunate or inevitable consequences of history. It also involves working in communities to create an environment in which people come to see and understand what is possible and how to achieve long-lasting social change. It allows for communities to reflect on whether or not certain rights exist at all and allows for a critical reflection that shows when rights may be illusory and why society does not protect such rights (Tjabane & Pillay, 2011:13). Social justice allows communities and citizens to revitalise social belief in the alternatives to social oppression and marginalisation. It allows for strengthening of social democracy and collective human agency and offers a way for people to develop tools to deal with the debilitating effects of violence. Social justice can create, in the words of Freire, critical consciousness in the quest for gender transformation found in radical social justice. In other words, the tools of social justice allow people to understand their world, the roots and effects of harassment,

abuse and violence, and to develop the tools to transform their world (Freire, 1974:30). Gender transformation becomes critical in addressing GBV and reaching gender-based justice. Social justice has to be a lived reality for all people: there has to be mutual gender agency

Freire addresses a serious dilemma of democracy – democratic citizenship and transformative social justice (Torres, n.d: 1.) Social justice learning, he suggests will take place when people reach a deeper, richer, more textured and nuanced understanding of social justice in relation to GBV. This can lead to critical gender literacy, using Freire's notion of a pedagogy of the oppressed to develop gender-based liberation. Social justice activism can lead to a re-humanising of gender, deeper understanding of democratic citizenship and gender action for change.

In the same way that in HIV and AIDS, social drivers have come to be understood as driving the epidemics, GBV can also be understood to be driven by underlying social and economic drivers.

In our work in diverse communities, we need to *take steps* to recognise and identify the underlying causes of harassment, abuse and violence. We need to *maximise resources* to address the underlying causes before they become too entrenched in societies. We need to work *progressively* to address community and social issues and effect change that can be sustained over time and we need *strategic alliances* with other CSOs, local authorities, legal bodies and community structures.

Human rights are all interrelated. Many different human rights violations share a common root cause, while a number of root causes may contribute to a single human rights violation. Fully analysing the underlying causes of human rights violations can require substantial research into the laws and policies and actions of government officials. It also requires research into the social and cultural contexts, as well as an historical analysis of the community and of previous attempts at effecting change. Human rights need a context and developing community-based gender activity through promoting social justice can lead to a greater understanding of social action for equality.

It is not always possible to move from the theory of social justice into action. Understanding what it means can change how we live gendered lives. Putting the theory into practice is always a challenge, and this monograph suggests two ways to link the theory of social justice with practice.

All in the household

CBOs and other partners working in GBV have constituencies in which they seek to develop implementation programmes and interventions. In most cases, working at community level is seen as an important site for effecting change. GBV operates at a community level but it is also crucial to develop interventions for social justice through interactions with households. Focusing on households as units of interventions opens up new ways of addressing social justice. Households are messy human collectives that have strong linkages with other systems such as the workplace, the educational system and other organisations.

Households are the site where GBV and other forms of abuse are incubated. In South Africa, households are seldom nuclear, but often reflect intergenerational and other characteristics. They can provide moral and economic support, or alternatively, fail to provide such support. Households reflect group dynamics and provide opportunities for improved relationships and communication. Households that come to recognise legal capital and how to seek redress for their members can form a strong base for social justice interventions.

Developing legal capital

One way to infuse social justice through the communities in which we work is through the creation of pockets of legal capital. People who suffer from GBV often feel that they lack the legal capacity to seek redress. Training community members as paralegals allows for a community-based legal response where all people come to recognise and understand human rights and social justice – where these are separate and call for separate activism and where they merge and call for a complementary activism.

Golub (in Von Broembsen and Davis, 2008) argues: "An alternative, more balanced approach often is preferable: legal empowerment – the use of legal services and related development activities to increase disadvantaged populations' control over their lives. This alternative paradigm, a manifestation of community-driven and rights-based development, is grounded in grassroots needs and activities but can translate community-level work into impact on national laws and institutions."

Numerous studies by academics and development organisations highlight the importance of building the capacities, organisation and political influence of civil society which seek to improve the lives of disadvantaged. To translate the power and protection of the Constitution to people who need it most requires skilled people: not only those with legal expertise, but also those who are able to grasp the complex and evolving challenges, needs and preferences of the poor, and to develop appropriate and effective strategies in line with these.

If we as South Africans seek to make our Constitution a living document, rather than an aspirational goal, we need to nurture and develop a new generation of community-based paralegals who are able to analyse not only from a legal perspective, but also from economic, political, gender and cultural perspectives, how to address the complex interplay of forces that affect gender violence as well as develop new and innovative ways of creating a society that embraces and strives for gender-based justice.

In Nahla Valji (2007: 35) defined gender justice as:

The protection and promotion of civil, political, economic and social rights on the basis of gender equality. It necessitates taking a gender perspective on the rights themselves, as well as the assessment of access and obstacles to the enjoyment of these rights for both women, men, girls and boys and adopting gender-sensitive strategies for protecting and promoting them.

Social justice advocacy picks up the batten and can be used and developed to create a society in which all people are aware of their rights and understand the basis of social injustice. People can use legal capital and social justice to be vigilant in defending and fighting for new understandings of gender-based justice.

The question we need to keep forefront in our social justice activism against GBV is:

What kind of world will the young boys, girls, (trans, bi, intersex, heterosexual, poor or privileged) inherit from our work to achieve lasting gender-based justice?

Reproductive justice and South African history: A case-study

An arena of special interest in the last five years, closely tied to gender and social justice, is the newly emerging research on the link between targeted forms of contraception in South Africa since the 1960s and the specific vulnerability of women to HIV infection in this region (Ramkissoo *et al.*, 2010). In the 1950s the language and legal landscape around reproductive rights was nascent, and in the Women's Charter although the rights of women to link their intimate relations to broader claims for power are mentioned, and their right to health education and full realisation is called for, and the state provision of welfare and maternal sites for their well-being as mothers is insisted upon, there is no mention of sexuality, or fertility, let alone contraception. By the 1960s the South African state was making explicit interventions in an attempt to control women's fertility: a pro-natalist drive was instantiated in the white sector of the population and all black people were targets of population reduction efforts (Burns, 2004). At the same time a growing hegemony of hyper-masculinity, an 'ideal type' being crafted out of precolonial forms and reformed and recharged with new discourses and practices of hyper-aggressive and sexualised heterosexual masculinity was gaining purchase. In this context the idealisation of multiple partners and access to sexual relations with women 'on demand' was at odds with the previous pattern of more evenly shared management of fertility and fecundity in heterosexual relationships (Burns, 1996: 79-91). Now the norm became male abrogation of responsibilities for protection against sexually transmitted disease and pregnancies (Ratele, 2006; 2008; 2014). These shifts in power relations regarding sexuality and fertility intimate dynamics were interlocked with the increasingly women-directed interventions of the South African state. Scholars have shown that by the mid-1970s the efforts were centred on the mass provision of long-release hormonal contraceptives, targeted only at women, and mainly at black women, such as Depo Provera. As a result of activism and research by feminist clinical scientists and their allies research began to evince what women's anecdotal evidence had pointed to for far longer: that these hormonal-based contraceptives rendered women's bodies more vulnerable to HIV infection (Harper, 2015; Polis *et al.*, 2017; Smit and Beksinska, 2013).

More than twenty years ago a number of scholars began to work on the history of eugenics, fertility control, 'family planning', abortion and contraception in South Africa (Bradford, 1991; Brown, 1987; Chimere-Dan, 1993; Kaufman, 1998; Klugman, 2000). This work was elaborated and extended in the context of

HIV (Hodes, 2013; Mbali, 2013; Scorgie *et al.*, 2009). This broad group worked in conjunction with the University of Witwatersrand-based Women's Health Project (WHP), and was later incorporated into the School of Public Health at the same university, under the auspices of the Gender and Health Division. A major aspect of the work of the WHP was to move from seeing women as a stable normative category to viewing women's health within a broader basket of gender and power relations around the body of women. The Project's work, from 1991 to the rise of the Treatment Action Campaign (TAC) in the early 2000s, is well captured in a 2003 study by a leading gender and health activist and researcher, Rosalind Petchesky (Friedman and Mottiar, 2005: 511-565; Sabi and Rieker, 2017; Youde, 2016).

The work of the WHP drew together more than half a century of debate and thinking about reproductive justice as an exemplary arena for both gender justice and social justice. Today the notion of reproductive justice is an increasingly popular framework for understanding broad-ranging issues relating to reproduction, health, child health, women's empowerment, development and social justice. The role of nurses (often women) and health care workers as brokers in this charged field of interventions and rights, responsibilities and valuations, is well documented in studies on abortion and nurses in sexual health and maternal health settings (Pen-Kekana and Blaauw, 2002; Pen-Kekana *et al.*, 2005; Xaba and Rispel, 2013).

Drawing from a social justice perspective, a reproductive justice framework necessarily moves beyond the 'reproductive rights' embedded in a human rights approach that was firmly entrenched in the global reproductive health agenda. This emerged in South Africa as a national, albeit state-centred, discourse in the wake of the International Conference on Population and Development that took place in Cairo in 1994. While not eschewing reproductive rights, activists and scholars working within a reproductive justice framework since 1994 point out that the rights agenda is insufficiently located within historical context and the multiple power relations that structure women's and men's sexual and reproductive lives. The South African case highlights this issue even further. For example, despite the legislative gains made with the passage of the Choice on Termination of Pregnancy Act (Act No. 92 of 1996), following which women who request abortion in the first trimester are supported in law, significant and well-documented injustices continue in relation to women who wish to terminate their pregnancies. Although in theory South Africa has moved from the paradigm of 'population control' to the paradigm of 'reproductive choice', the latest research, including the recently released South African Health and Demographic Survey shows that this is not so. If, as have been argued, apartheid was in many ways also a 'population control programme', it is not clear that the last 25 years since the formal ending of that system have created the conditions, outside of strict legal provisions, for a social justice approach to reproduction and fertility.

For example, the most recent and comprehensive study of contraception and fertility control in South Africa completely excludes the study of condoms in terms of their contraception benefit. This 2017 paper, by Chersich *et al.*, and others published in scholarly journals over the last five years, shows that while

school-based education is failing to convey even basic educational messaging about contraception, where it is provided, it is almost exclusively aimed at schoolgirls. In the Chersich study, the authors accept that this should be so, and that it is girls' responsibility to learn about contraception, and the state's responsibility to teach girls. This paper evinces no sense of the history of reproduction struggles, reproductive rights, or of how or why females are the vectors of all responsibility for fertility, let alone why and how education and didactic interventions have de facto become exclusively directed at them. Instead it finds:

In common with other countries ... young women had low contraception use and poorer levels of knowledge about these methods, making it clear that the reproductive health component of the School Health Programme needs to be considerably strengthened. It is very disappointing that many young women leave school with little knowledge of contraception, (Chersich, 2017: 303).

Contraception has not been integrated into other reproductive or general health services, and this was true for the apartheid era, the first phase of the post-apartheid era, and as of 2012, this lack of integration continues in the health sector across South Africa. Such an omission occurs despite the fact that in 1998 the South African state promulgated a new population policy that represented a break from apartheid-era policies. Following local rights-based and international social justice analysis of demographic and population issues, the policy was oriented towards a sustainable development agenda. It moved away from fertility and contraception per se (Department of Social Development, 1998).

Despite such commitments to including men in the frame and thinking through gender stereotypes and gender power relations as part of the landscape of justice and rights in fertility and birth, the updated policy again commits to create contraceptive services as part of other reproductive health services and reports a failure

across South Africa to do this since 1998. The policy further commits to attend to the impact of HIV upon childbearing and to the needs of both HIV-negative women and women living with HIV (WLWH), as well as lesbian and gay and bisexual people. This was echoed in a 15-year Review published in 2015. Here the Review argued that:

These challenges can only be addressed adequately when reproductive justice is achieved for all in South Africa, particularly for [vulnerable] women. Reproductive justice can however only be realised when [sexual and reproductive health and rights] is an integral part of initiatives geared towards achieving gender equality, equity and the full empowerment of women. For this to happen, all, but particularly the most marginalised and vulnerable should also achieve economic and social justice, only then will they be able to make informed and responsible choices regarding their own fertility (Department of Social Development, 2015: 113).

We can only conclude that the continued focus on women as responsible for fertility across South African society, and the lack of contraceptive choices, especially for black women in the public sector, combined with the continuing practice of injecting post-partum women with slow-release hormonal contraceptives, and the reliance on injectable forms of contraception for young women, is rooted in the past and remains a massive challenge to achieving gender justice in this society.





SECTION FOUR

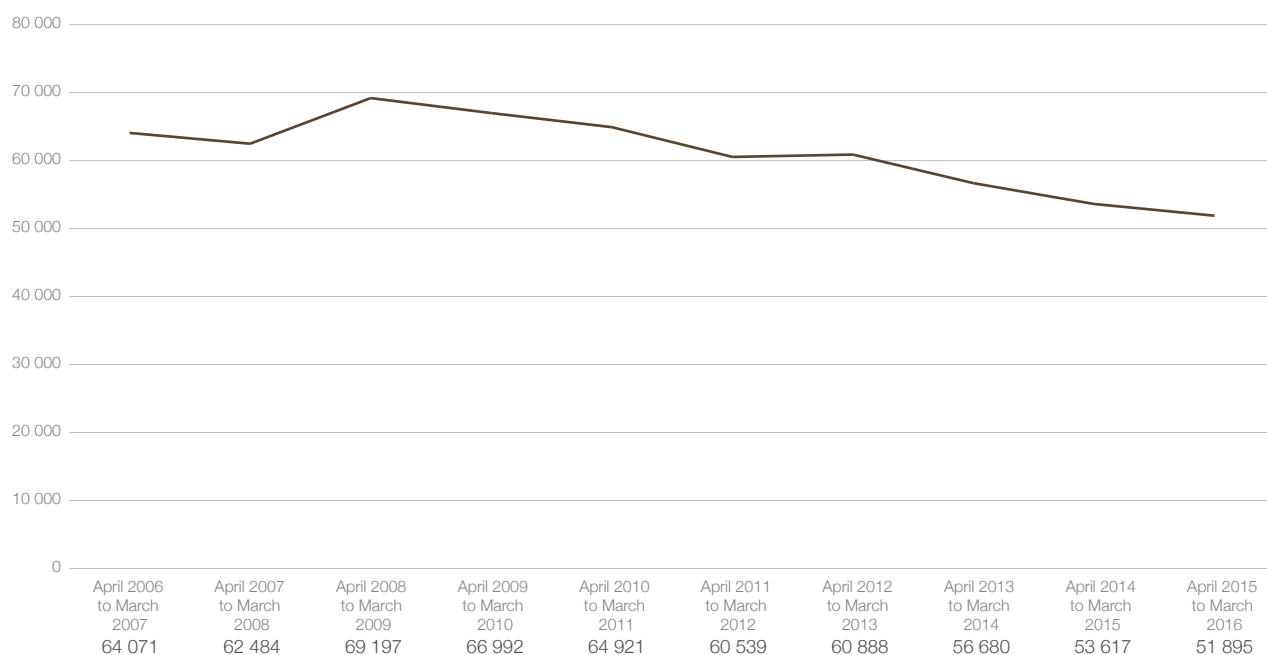
Resources

Appendix 1: Crime statistics in South Africa

Sexual assault in South Africa

Crime statistics in South Africa are captured and recorded in various categories. The category in which GBV is captured is 'sexual assault'. Femicide will be captured in the category of 'murder' – but is not disaggregated and as such is invisible. There was a reduction of 3.2% in reported cases of sexual assault over this 10-year period.

Sexual offences in South Africa: April 2006 - March 2016



Sexual assault: 1 April 2016 to 31 December 2016

SAPS published a more detailed statistical report with analysis of quarterly data from April to December 2016. According to this report, in this period there were 37 630 reported cases of sexual assault, which was a 6.3% reduction as compared to the same period in 2015 (40 143 cases).

This report is unique in that it disaggregates the 'sexual assault' cases category into:

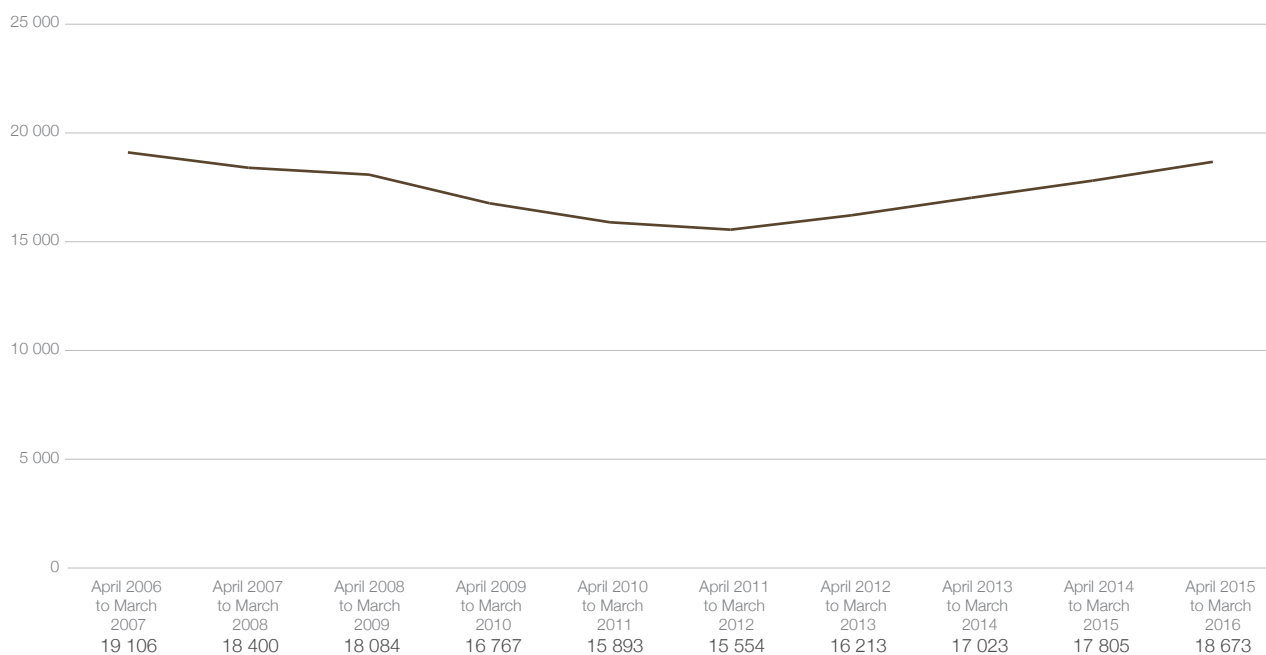
- Rape
- Sexual assault
- Attempted sexual offences, and
- Contact sexual offences.

There is unfortunately no information in the report about how these sub-categories were defined. Numbers of cases were reported as follows for the 9-month period:

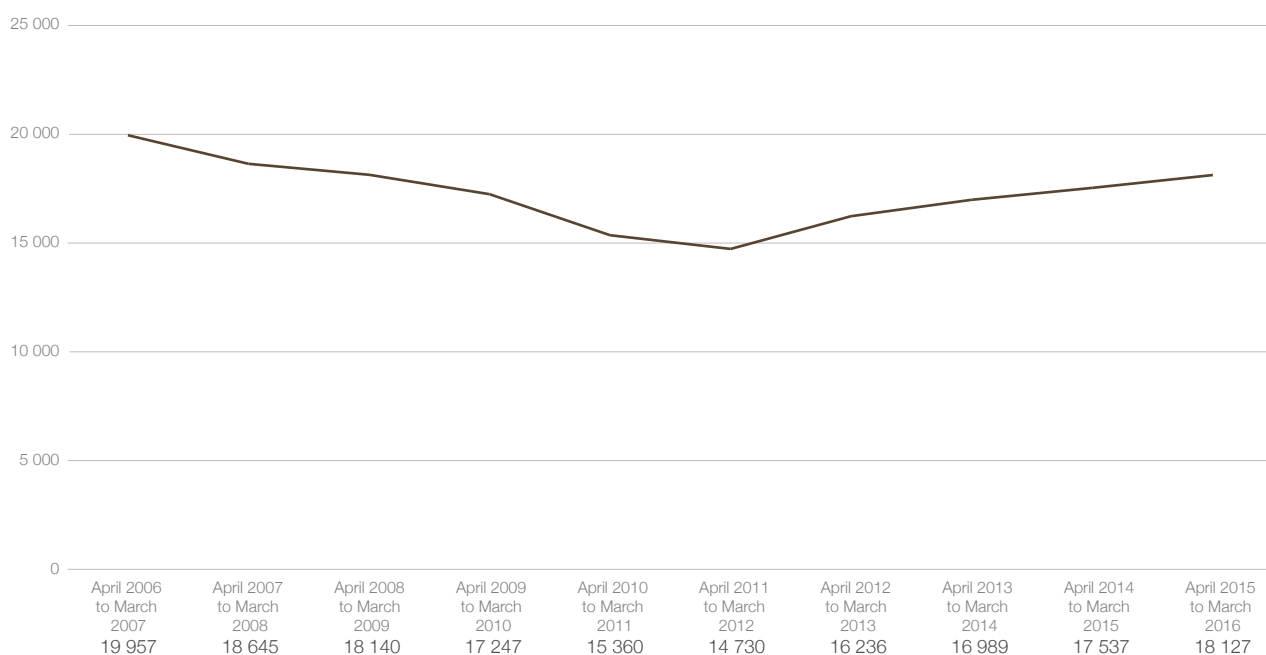
Sexual assault categories	April 2015 to December 2015	April 2016 to December 2016	% Change
Rape	32 161	30 069	-6.5%
Sexual assault	4 817	4 815	0.0%
Attempted sexual offences	1 918	1 573	-18%
Contact sexual offences	1247	1 173	-5.9%
Total sexual offences	40 413	37 630	-6.3%

Murder and attempted murder in South Africa

Murder in South Africa: April 2006 to March 2016



Attempted murder in South Africa: April 2006 to March 2016



Murder and attempted murder: 1 April 2016 to 31 December 2016

Categories	April 2015 to December 2015	April 2016 to December 2016	% Change
Murder	14 343	14 333	-0.1%
Attempted murder	13 806	13 698	-0.8%

Appendix 2: The Women's Charter¹²

The Women's Charter forms the basis of the discussion in Section One of this monograph.

Preamble

We, the women of South Africa, wives and mothers, working women and housewives, African, Indians, European and Coloured, hereby declare our aim of striving for the removal of all laws, regulations, conventions and customs that discriminate against us as women, and that deprive us in any way of our inherent right to the advantages, responsibilities and opportunities that society offers to any one section of the population.

A Single Society:

We women do not form a society separate from the men. There is only one society, and it is made up of both women and men. As women we share the problems and anxieties of our men, and join hands with them to remove social evils and obstacles to progress.

Test of Civilisation:

The level of civilisation which any society has reached can be measured by the degree of freedom that its members enjoy. The status of women is a test of civilisation. Measured by that standard, South Africa must be considered low in the scale of civilised nations.

Women's Lot:

We women share with our menfolk the cares and anxieties imposed by poverty and its evils. As wives and mothers, it falls upon us to make small wages stretch a long way. It is we who feel the cries of our children when they are hungry and sick. It is our lot to keep and care for the homes that are too small, broken and dirty to be kept clean. We know the burden of looking after children and land when our husbands are away in the mines, on the farms, and in the towns earning our daily bread.

We know what it is to keep family life going in pondokkies and shanties, or in overcrowded one-room apartments. We know the bitterness of children taken to lawless ways, of daughters becoming unmarried mothers whilst still at school, of boys and girls growing up without education, training or jobs at a living wage.

Poor and Rich:

These are evils that need not exist. They exist because the society in which we live is divided into poor and rich, into non-European and European. They exist because there are privileges for the few, discrimination and harsh treatment for the many. We women have stood and will stand shoulder to shoulder with our menfolk in a common struggle against poverty, race and class discrimination, and the evils of the colour bar.

National Liberation:

As members of the National Liberatory movements and Trade Unions, in and through our various organisations, we march forward with our men in the struggle for liberation and the defence of the working people. We pledge ourselves to keep high the banner of equality, fraternity and liberty. As women there rests upon us also the burden of removing from our society all the social differences developed in past times between men and women, which have the effect of keeping our sex in a position of inferiority and subordination.

Equality for Women:

We resolve to struggle for the removal of laws and customs that deny African women the right to own, inherit or alienate property. We resolve to work for a change in the laws of marriage such as are found amongst our African, Malay and Indian people, which have the effect of placing wives in the position of legal subjection to husbands, and giving husbands the power to dispose of wives' property and earnings, and dictate to them in all matters affecting them and their children.

We recognise that the women are treated as minors by these marriage and property laws because of ancient and revered traditions and customs which had their origin in the antiquity of the people and no doubt served purposes of great value in bygone times.

There was a time in the African society when every woman reaching marriageable stage was assured of a husband, home, land and security.

Then husbands and wives with their children belonged to families and clans that supplied most of their own material needs and were largely self-sufficient. Men and women were partners in a compact and closely integrated family unit.

Women who Labour:

Those conditions have gone. The tribal and kinship society to which they belonged has been destroyed as a result of the loss of tribal land, migration of men away from the tribal home, the growth of towns and industries, and the rise of a great body of wage-earners on the farms and in the urban areas, who depend wholly or mainly on wages for a livelihood.

Thousands of African women, like Indians, Coloured and European women, are employed today in factories, homes, offices, shops, on

farms, in professions as nurses, teachers and the like. As unmarried women, widows or divorcees they have to fend for themselves, often without the assistance of a male relative. Many of them are responsible not only for their own livelihood but also that of their children.

Large numbers of women today are in fact the sole breadwinners and heads of their families.

Forever Minors:

Nevertheless, the laws and practices derived from an earlier and different state of society are still applied to them. They are responsible for their own person and their children. Yet the law seeks to enforce upon them the status of a minor.

Not only are African, Coloured and Indian women denied political rights, but they are also in many parts of the Union denied the same status as men in such matters as the right to enter into contracts, to own and dispose of property, and to exercise guardianship over their children.

Obstacle to Progress:

The law has lagged behind the development of society; it no longer corresponds to the actual social and economic position of women. The law has become an obstacle to progress of the women, and therefore a brake on the whole of society.

This intolerable condition would not be allowed to continue were it not for the refusal of a large section of our menfolk to concede to us women the rights and privileges which they demand for themselves.

We shall teach the men that they cannot hope to liberate themselves from the evils of discrimination and prejudice as long as they fail to extend to women complete and unqualified equality in law and in practice.

Need for Education:

We also recognise that large numbers of our womenfolk continue to be bound by traditional practices and conventions, and fail to realise that these have become obsolete and a brake on progress. It is our duty and privilege to enlist all women in our struggle for emancipation and to bring to them all realisation of the intimate relationship that exists between their status of inferiority as women and the inferior status to which their people are subjected by discriminatory laws and colour prejudices.

It is our intention to carry out a nation-wide programme of education that will bring home to the men and women of all national groups the realisation that freedom cannot be won for any one section or for the people as a whole as long as we women are kept in bondage.

An Appeal:

We women appeal to all progressive organisations, to members of the great National Liberatory movements, to the trade unions and working class organisations, to the churches, educational and welfare organisations, to all progressive men and women who have the interests of the people at heart, to join with us in this great and noble endeavour.

Our Aims:

We declare the following aims:

This organisation is formed for the purpose of uniting women in common action for the removal of all political, legal, economic and social disabilities. We shall strive for women to obtain:

- The right to vote and to be elected to all State bodies, without restriction or discrimination.
- The right to full opportunities for employment with equal pay and possibilities of promotion in all spheres of work.
- Equal rights with men in relation to property, marriage and children, and for the removal of all laws and customs that deny women such equal rights.
- For the development of every child through free compulsory education for all; for the protection of mother and child through maternity homes, welfare clinics, crèches and nursery schools, in countryside and towns; through proper homes for all, and through the provision of water, light, transport, sanitation, and other amenities of modern civilisation.
- For the removal of all laws that restrict free movement, that prevent or hinder the right of free association and activity in democratic organisations, and the right to participate in the work of these organisations.
- To build and strengthen women's sections in the National Liberatory movements, the organisation of women in trade unions, and through the peoples' varied organisation.
- To cooperate with all other organisations that have similar aims in South Africa as well as throughout the world.
- To strive for permanent peace throughout the world.

Appendix 3: Selected government statements on gender-based violence, May 2015-May 2017

These statements from government over a two-year period are not a complete or exhaustive survey, but are illustrative of the discourse from and within government on GBV.

2015

Minister Susan Shabangu: Launch of Women's Month 30 July 2015

We converge here a day before the African Union (AU) Pan African Women's Day which is celebrated annually on the 31st of July. We are encouraged by this AU decision because it recognises one of the oldest women's formations in Africa, The Pan African Women's Organisation (PAWO) formed in 1962.

Once more African women made history by setting the tone and on the 31st July 1962 when they launched first Conference of African Women in Dar-es-Salaam in Tanganyika under the leadership of Jeanne Martin, Diallo Virginia and one of our own, Adelaide Tambo. The formation of PAWO no doubt inspired the formation of the Organisation of African Unity (OAU), now known as the AU, formed on the 25th of May 1963, in Addis Ababa, Ethiopia. The same way as the adoption of the Women's Charter inspired the adoption of the Freedom Charter in our country.

This year marks 59 years since the 1956 Women's march to the Union Buildings where women protested against the pass laws which among other things restricted their freedom of movement. The march to the Union Buildings in 1956, by 20 000 women, was to challenge an oppressive system that has deepened inequalities in terms of race and gender, and has contributed to the current triple challenges of inequality, unemployment, and poverty.

These burdens are heaviest on the women. Therefore when women of South Africa converged at the Union Buildings 59 years ago, from every corner of South Africa, they created an enduring legacy of our country's history.

In recognition of this legacy, the South African government declared 9 August National Women's Day, in order to annually celebrate the women's contribution to the liberation of the country and their achievements since 1994. Further, government declared August Women's Month as a tribute to the more than 20 000 women who marched to the Union Buildings on 9 August 1956 and to continue raising awareness, to show commitment, to ensuring the achievement of the aims and aspirations of the women of 1956.

Women's Month is therefore a time when we not only celebrate but reflect on progress, both the achievements and the challenges we face in our struggle for women's empowerment and gender equality.

It is therefore befitting that as we celebrate these 59 years we pause to reflect on the progress made since the dawn of democracy and assess our achievements in the realisation of a truly non-sexist, non-racial, democratic and united South Africa.

As we celebrate the 59th Anniversary of the women's march we are also mindful that 2015 marks the 60th Anniversary of the Freedom Charter. We must use the occasion of the 59th Anniversary to chronicle the immense contribution of women in the drafting of the Freedom Charter and in the struggle for liberation. In 1841 one of the earliest socialists, Charles Fourier wrote: "The change in a historical epoch can always be determined by the progress of women towards freedom, because in the relation of woman to man, of the weak to the strong, the victory of human nature over brutality is most evident. The degree of emancipation of women is the natural measure of general emancipation."

Since the turn of the century, women have emerged as primary catalyst for protest against apartheid colonialism. As we move towards the 60th Anniversary of the women's march, we need to recognise the stalwarts that confronted colonialism, apartheid, pass laws, land dispossession etc. The role played by women in the history of South Africa cannot be complete until we take a journey that begins from the era of Manthatisé (the female warrior), Princess Mnkabayi, Princess Mantsopa, Queen Modjadji, Charlotte Maxeke and her ilk through to the generation of 1956 and beyond.

This journey has to depict the leadership role that these foremothers provided in the various stages of the evolution of our society and link it to the 21st Anniversary of the democratic South Africa and the impact of the policies of the country in changing the quality of life of South African women.

As early as 1913, under the leadership of Charlotte Maxeke and others, women staged a daring combat against oppression and exploitation. They protested against discriminatory laws that restricted free movement of Africans - like the pass laws whose rejection triggered the massacre in Sharpeville, in 1960.

We have just laid to rest one of our stalwarts, Isithalandwe Mme Ruth Mompati. We use the occasion of the 59th Anniversary to salute her and other women who gave their lives, selflessly, so that we can all be free. We pay homage to women leaders in the calibre of Charlotte Maxeke, Lillian Ngoye, Helen Joseph, Amina Cachalia, Ray Alexander Simons, Dorothy Nyembe, Albertina Sisulu, Rahima Moosa, Adelaide Tambo, Bertha Gxowa, Gertrude Shope, Sophie Du Bruin, Winnie Madikizela-Mandela and many others.

In his first State of the Nation Address in 1994 President Nelson Mandela cautioned the first democratically elected Parliament that:

“Freedom cannot be achieved unless women have been emancipated from all forms of oppression...Our endeavours must be about the liberation of the woman, the emancipation of the man and the liberty of the child.”

Since this statement, South Africa has made significant legislative reforms, developed and implemented policies and programmes based on the Constitution (1996) encompassing the Bill of Rights which seeks to promote and protect women's rights at home, in communities and in the workplace.

This year South Africa also celebrates 21 years of democracy and this is an important symbolic and real milestone in our history. We need to consolidate the significant milestones of women's emancipation and gender equality.

The 2015 Women's month is a build-up towards the 60th Anniversary of the Women's march and is aimed at achieving the following:

- To educate the nation about the role women played in the emancipation of the continent
- To document the correct stories of heroines of South Africa
- To celebrate women who have made it in all spheres of life in the continent
- To honour and celebrate the girls of 1976 and recognise the role played by young women in the liberation struggle
- To unite South African women
- To celebrate the struggles of the women over the decades and a rejuvenation of our commitment to strive for a society that is truly non-racial, non-sexist, united, democratic and free of all forms of discrimination
- To remember the history of Women's struggle in South Africa and to continue writing our history as it has to evolved.

The Women's Month programme kick-starts the celebrations that will culminate into festivities of the 60th Anniversary of the women's march.

All events will be hosted in a spirit that befits the marches of women against passes from as early as 1913, taking the nation down memory lane with respect to the role played by women in the history of South Africa.

The programme will also highlight government initiatives and the impact of the policies of the country in changing the quality of life of South African women. Our National Women's Day event will be held at the Harry Gwala Multipurpose Sports Centre in Zamdela, Sasolburg, Free State Province. The event will start with a symbolic march in recognition of the women of 1956 and will culminate into a mass rally.

It is important to note that every week of August 2015 in terms of our programme will focus on a specific sub-theme in celebration of our country.

Week 1: Celebrating Women in Fashion

The week will be dedicated to celebrating profiling women who are cracking it in the fashion industry and as a result contribute to job creation. Various media platforms will be utilised where we will have a collage of these women and their contribution in dressing the nation. The SABC will partner with DOW in this programme.

Week 2: Celebrating Women in Film

The department in partnership with the National Film and Video Foundation (NFVF) will have two screenings produced or directed by women or telling stories of women. The screenings will target young people and will take place as follows:

- 10 August 2015: Jabulani
- 14 August 2016: KwaMashu

The screenings will be extended to other provinces as we move towards the 60th Anniversary.

Week 3: The fight against human trafficking and labour exploitation of women

The week will focus on the fight against trafficking of women and children as well as the exploitation of women from our neighbouring countries with specific focus on Lesotho women. South Africa will partner with Lesotho government and the following activities are planned for the week:

- 21 August 2015: Symposium focusing on labour exploitation and related issues.
- 22 August 2015: A symbolic march at the Maseru border gate where both South African and Lesotho women will give their memorandum of demands to authorities representing their countries. The march will call for an end to human trafficking and request more stringent measure[s] of combating trafficking of women and children.

- 22 August 2015: The march will culminate into a rally on a farm where the leadership of both countries will have an opportunity to address women. The rally will be held at Mooderpoort farm, the home of Mantsopa.

Week 4: Economic Empowerment (Financial Inclusion of women)

In line with the AU themes of the African Women's Decade and the new mandate of the Department of Women's socio-economic empowerment, the department will host high-level engagements on the mechanisms and modalities for women's financial inclusion in the economy and all sectors of the country.

- 4-5 September 2015: Trade Fair and Exhibition of Women in South Africa and Zimbabwe to be held in Musina, Limpopo province. Women from both countries will showcase and sell their products from clothes to crafts.
- 9 September 2015: Techno-girl roundtable – The department will host The New Age (TNA) business breakfast focusing on the empowerment of young women in the fields of STEM. The business breakfast will culminate into a high level panel discussion on how to strengthen the current Techno-Girl job-shadowing programme

Women's month 2015 will be celebrated under the theme: "Women United In Moving South Africa Forward".

The theme is in line with the 2014-2019 government theme and recognises the need for women to embrace unity of purpose as we consolidate the gains of our democracy. It is informed by the well documented unity of the women of 1956. It is therefore a clarion call for women to emulate the women 1956 and unite as we continue to fight the triple challenge of poverty, unemployment and inequality.

Ladies and gentlemen, allow me to unveil the look and feel for August 2015... The logo captures "We are Africa" theme and is centred around the AU theme for 2015 as "the Year of Women's Empowerment and Development towards Africa Agenda 2063". Thus it is a celebration of the successes and milestones achieved by African women to date, whilst continuing with the struggle for the total emancipation of women in our society.

The four women in the logo represent unity in diversity and it is a call for women to unite as we move towards the 60th Anniversary of the women's march. I take this opportunity to also launch our social media platforms that were non-existent such as the Department of Women (DoW) You Tube channel, Instagram and Google+.

Today we also launch our very first online radio which will be accessible through the media room menu item on the Department of Women's website. The radio will be running continuously and can be accessed anytime from today. The online radio will feature speeches, interviews, and media statements relevant to the work of the department. The content will be continuously refreshed to cover the emerging work of the department.

Ladies and gentlemen, our clarion call to women of our country is to have unity of purpose as we move South Africa forward.

Let us all rally behind the 2015 Women's month theme: "Women United in Moving South Africa Forward".

<http://www.gov.za/speeches/minister%ADsusan%ADshabangu%ADlaunch%ADwomens%ADmonth%AD30%ADjul%AD2015%AD00004/4>

Speech of the Minister in The Presidency responsible for Women, Minister Susan Shabangu, MP: 16 Days of Activism of No Violence against Women and Children, Joint Sitting of Parliament, Cape Town, 13 Nov 2015

The debate on 16 Days of Activism for No Violence against Women and Children takes place against the backdrop of the celebrations of the 60th Anniversary of the Freedom Charter. The ideals of the Freedom Charter as enshrined in the Constitution have ensured a culture of respect for human rights and an identity founded on the values of non-sexism, nonracialism, democracy and unity in diversity. The Constitution further guarantees equality and freedom from any form of violence or discrimination.

In 2014, His Excellency President Jacob Zuma made the call for the 16 Days campaign to be effective 365 days, 24 hours of the day and every minute, to fight the scourge that eats our society. Under the leadership of the Department, government, in partnership with various stakeholders including Crime Line, acceded to this call, and launched the #365 Days of Activism for No Violence Against Women and Children as well as #CountMeIn Campaign on the 11th Dec 2014.

16 Days of Activism, as a United Nations-endorsed campaign, is a flagship of the #365 Days of Activism and a period of heightened awareness and enhanced activism for No Violence Against Women and Children. This is when we commit to intensify the action against the brutal and dehumanising acts of violence against women and children.

The approach adopted by Cabinet is a deliberate act to fight violence against women and children as a societal issue and not domestic one, because this scourge can only be defeated through collective action of both women and men. Our approach throughout #365 Days is multi-sectoral and inclusive as we mobilised faith based organisations, traditional leaders, labour movement, civil society organisations, the media and the sporting fraternity.

We must move away from just messages, and build the spirit and culture of voluntarism to mobilise the nation towards change of attitudes and to eradicate the scourge, under the theme: "Count Me In: Together Moving a Non-Violent South Africa forward".

During the 2014 16 Days of Activism, we reached thousands of people throughout South Africa and in the Continent. The participation by government departments at national and provincial level as well as the participation of local government contributed to the massiveness of the campaign. Through these partnerships, the Department was able to leave behind parks for children and food gardens in crime hotspot communities. Sports people were also mobilised as ambassadors for the campaign.

We have seen thousands and thousands of South Africans signing a pledge to be "counted in" against gender-based violence. We were also able to reach out to 46 African countries, reaching about half a billion people through One Gospel, SABC, ANN7, ETV and other media platforms. The interfaith organisations and civil society organisations have been critical in social mobilisation throughout our #365 Days Campaign and have expressed appreciation of the continuous partnership with government in the campaigns against gender-based violence. All sectors were mobilised to speak in one voice against this scourge and be part of "many voices, one message" in this everyday campaign.

Over the last seventeen years, we have witnessed growth of the 16 days of Activism Campaign, making it one of the most known government events in South Africa, according to the GCIS Tracker Survey. We must therefore build on this and turn the awareness into behavioural changes and ensure that the reported reduction of cases essentially represents reduction of actual incidents of violence against women and children.

The urgency of addressing this issue and instilling positive values is underlined by the recent spate of terrible violence and sexual offences against women and children as well as older persons. This terrible violence includes an incident in September where a Limpopo father killed his four children between the ages of four and thirteen years by slitting their throats and forced the youngest to call his mother whilst butchering the others.

It also includes an incident in October where a gang of twelve attacked two couples while enjoying picnic and raped one woman and drowned two men in a lake in Rhodes Park. May I take this opportunity to welcome the arrest of one of the suspects and call on the police to move with necessary speed in putting the rest of the gang members behind bars.

Learning from the successes of the #365 Days, there is growing recognition of the need to engage both victims and perpetrators of violence against women and children, in order to change the mind-set, prevent future incidents and actively assist non-perpetrators who are at risk of carrying out domestic violence. This year we continue to build on this inclusive approach and continue to position gender-based violence as a societal issue.

In addition to the protection of the rights of women and children, the campaign will also continue to focus on the protection of the rights of other vulnerable people such as the LGBTI community, people with disabilities, the elderly, and people living with albinism. In partnership with the NYDA the Department will continue to educate and create awareness among young people in order to strengthen the prevention pillar and turning youth into agents of change with respect to activism of no violence against women and children.

Last year we made a commitment to hold National Dialogues on Gender-based violence. This commitment could not be met as a result of the lack of resources within the Department. We are still committed to ensuring that women and men from the length and the breadth of our country are given an opportunity to participate in the national conversation to seek solutions to gender-based violence. We are ready as the Department for the national dialogues traversing the whole country both urban and rural areas engaging women and men.

The dialogues will now take place next year as a build-up towards the 60th Anniversary of the 1956 women's march. They will provide a platform for women to tell their personal stories with regards to violence they may have experienced at home, in the workplace and how it has impacted on them and indeed how they see the solutions. We do this understanding that violence is complex and requires a multi-pronged solution involving various role players both in government, private sector as well as society as a whole.

The symbol of no violence against women and children is a red and white ribbon which epitomises the causal link between gender-based violence and HIV and AIDS. We call on all South Africans to wear the red and white ribbon to show their support for the fight against this scourge.

The Integrated National Programme of Action Addressing Violence Against Women and Children (2013-2018), adopted by Cabinet in 2013, has an extensive range of existing and new measures aimed at complementing initiatives such as the sexual offences courts and other victim empowerment initiatives. One such initiative was the establishment of the Gender-Based Violence Command Centre by the Department of Social Development (DSD) in March 2014.

The GBV Command Centre is aimed at improving services to women and children who experience violence and abuse. It is a 24-hour call centre dedicated to provide support and counselling to victims of GBV. The command centre is aimed at providing immediate psychological assistance and referral to victims affected by GBV, and to assist them in avoiding additional exposure to violence.

We congratulate Minister Bathabile Dlamini and her team at the Department of Social Development for this innovation that has no doubt put South Africa at helm of international best practices on the fight against gender-based violence. The GBV Command Centre has now been recognised continentally as well as internationally for its innovative approach and excellence in the fight against gender-based violence.

It has won a number of internationally acclaimed awards such as the Innovation Award in the Contact Centre Management Group 2015, Changing Lives Award Category in the Africom Award 2015 and the Gold Medal at Global Best Contact Centre Award recently held in Las Vegas, Siyaqhuba!

The crime statistics released by the South Africa Police Services in September this year indicate a decrease in the overall violent crime rates due to the declining number of assaults and sexual offences cases reported. For example, reported cases of rape continue to decrease. In 2008/09 when cases of rape were enrolled for the first time in the magistrate courts across the country 46 647 cases were reported and in 2014/15 rape cases has dropped by 7.4% to 43 195.

We need to closely examine these statistics and be alive to the fact that there are also many cases that go unreported as a result of a number of factors such as fear, a belief that disclosure is pointless, embarrassment and the notion that women must endure violence because it is culturally accepted and normal. There is reluctance on the part of victims of violence to come forward and seek legal advice and social support.

This could be due to women's economic dependence on men and poverty, the social stigma around domestic violence, or the inaccessibility for rural women of police stations and courts. In order to understand the depth of the problem, we will ensure that we have disaggregated data on gender-based violence because the current crime statistics do not show data specific to domestic violence.

This debate also takes place at a strategic moment where the global community has moved from the MDGs and adopted the Sustainable Development Goals (SDG's) and shaping a post-2015 development agenda. This includes Goal Five, focusing on the achievement of gender equality and empowerment of all women and girls.

As a country we are committing ourselves to mainstreaming goal five into all the other goals. We cannot talk about poverty or development without talking about issues of women's empowerment and gender equality.

This is well captured in the words of one of the leading African revolutionaries, Kwame Nkrumah: "The freedom and development of African women is indispensable to the freedom and emancipation of the African people." The second phase of radical socio-economic transformation will continue to address the inequality, poverty, unemployment and violence that continue to plague our country, and bedevil the lives of the majority of women and children.

The United Nations has declared the 19th November as the International Men's Day, focused on men's health. This day provides also for solidarity against violence against women and children. On Thursday next week we call on South Africans, to switch on their hazard lights, blow whistles and hoot for at least 5 minutes in the period between 07:30 - 08:00 in the morning, to say "Not in my name". I call on you, across the nation, to stand up and say: Count-Me-In! On this day, we want to hear the cacophony of sound as South Africans join forces to be heard saying "Enough is Enough" - Rho neta! We call on all male members of Parliament to join thousands of South African men as they say: "Rho neta! Enough is Enough!"

We appeal to all South Africans to switch-off their lights between 20:00-21:00 on 24 November and light a candle in memory of many South African women and children who have died as a result of this scourge. On the International Day against violence against women and children, 25 November, I extend an invitation to all Members of Parliament to join us in Naauwpoort near Mahikeng in our national event addressed by His Excellency, The President. This cannot just be a government campaign. Once more I want to emphasise – this is a campaign for the nation, saying Count Me In – Together Moving A Non-Violent South Africa Forward.

The Report on the Status of Women in the Economy indicates that, and I quote: “Given the nature of the problem, it seems unlikely that there exists a single intervention that would dramatically reduce or eliminate violence against women. Instead, a multi-pronged approach is arguably required, involving economic, social, infrastructural, legal and attitudinal interventions, as well as the mainstreaming of gender considerations in both public and private sector programmes.”

Together let us build a society where, women can walk freely in the street and children can play safely outside with no fear of being attacked. Let us continue to speak against this scourge and build on the successes of the last 17 years as well as the successes of the 1st year of #365 on no violence against women and children. Let us continue to have “many voices, one message” that says “Count me in: Together moving a non-violent South Africa forward!”

<http://www.gov.za/speeches/>

2016

Progress for all women is equal to sustained progress for all - Message by Parliament Speaker Baleka Mbete on International Women’s Day, 8 Mar 2016

On 8 March, South Africa joins the world and the United Nations to commemorate International Women’s Day, with the theme for 2016 being: “Planet 50-50 by 2030: Step It Up for Gender Equality”.

International Women’s Day provides us with an opportunity to celebrate the world’s and our countries’ progress toward ensuring the rights and opportunities of women and girls. We shall also renew and reinvigorate our countries commitments to achieve gender equality.

For the duration of 2016, our country is also proudly commemorating the 60th anniversary of the 1956 historic women’s march to the Union Buildings in Pretoria. The 1956 march by an estimated 20 000 women is significant in that it brought together women from diverse backgrounds - united in their determination to demonstrate and voice their rejection of the unjust pass laws which affected African women. The late Helen Joseph, a veteran of the liberation struggle, recalled the march of 1956:

“I shall never forget what we saw – 20 000 women of all races standing in silence for a full 30 minutes, arms raised high in the clenched fist of the Congress salute...The brilliant colours of African headscarves, the brightness of Indian saris and the emerald green blouses worn by Congress women were woven together by the very darkness of thousands of faces.”

Though the 1956 anti-pass march is the most well-known example of women’s resistance to apartheid, it must be emphasised that it was by no means an isolated incident. History clearly shows that from the very beginning women have been at the forefront of resistance against colonialism and then apartheid in South Africa. In earlier times it was the young Charlotte Maxeke who led the first national demonstration against the 1913 Land Act, which formalised land dispossession in our country.

One of the most important victories of the South African Women’s Movement has been the clear recognition in our Constitution that women’s rights are human rights. As a result of the tireless mobilisation of women in our country, there has also been a recognition that gender equality, in addition to being a human right, is critical to achieving sustainable development progress. If women and girls are not able to fully realise their rights and aspirations in all spheres of life, development will be impeded.

South Africa has made legally binding commitments such as the Beijing Declaration and Platform for Action, The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Africa Union Agenda 2063, the Sustainable Development Goals (SDGs), amongst others, to respect, protect and fulfil women’s human rights, recognising their intrinsic value as well as the synergies between women’s rights, wider prosperity and an improved quality of life. These key instruments have been instrumental in the progress women have achieved in respect of gender empowerment and gender parity in all areas of life by 2030.

In particular, much of the collective energy and focus of government, supported by civil society has been focussed on the attainment of progressive legislative reform that removed all forms of institutional discriminatory laws in the quest for a free, non- racial and non-sexist society. As a result of the creation of an enabling environment, through legislation and regulation, intended to bring about gender equality, the participation of women in all spheres of society has improved significantly.

The number of women in politics has increased. More women have been elected to public office, for example 41 percent of parliamentarians are women, but we still need to go some way to achieve parity. The representation of women in Cabinet following the 2014 general election stands at 43 percent, with deputy Ministers being at 45.9 percent. At local government level, steady progress has been recorded in the representation of women. Following the 2011 local government elections, the representation of women on local government councils is at 38.4% compared to 28.2% in 2000, and there is great expectation that the representation of women at local government will increase after the local government elections scheduled for later this year.

A 2015 review by the United Nations of pre- and post-transfer poverty rates underscores that South Africa's social transfers by way of the Child Support Grant, free primary health care, no-fee paying schools, RDP housing and the provision of basic services, namely water and sanitation, has been found to cushion the poor and the destitute from poverty and destitution. In particular, the Child Support Grant, has been found to facilitate women's access to paid employment. Notwithstanding the impressive achievements mentioned above, our government's, frank assessment of our progress over the past 20 years in its 20 Year Review Report and the Report on the Status of Women in the economy, 2014, indicates that despite a plethora of progressive legislation, women have not advanced as rapidly in terms of socio-economic empowerment and gender equality as was expected.

Further, the most current figures from Statistics South Africa (2014) reveals that women continue to bear the brunt of the triple challenges of poverty, unemployment and inequality. In addition, the National Development Plan (NDP) 2030, our developmental blue print, identifies women as the most affected by inequality, poverty and unemployment. This is particularly so in the rural areas and informal settlements.

In this regard, although more women than ever before are participating in the work force, women generally earn less than men and carry a disproportionate burden of unpaid care work, which deprives them of time for valuable pursuits like earning money, gaining new skills and participating in public life. And, while progressive laws have been put in place and exist to protect women from violence, sexual and GBV continue to occur at unacceptably high rates of violence in our country. In the second decade of our democracy, there is encouraging momentum not only to renew and address the promises of Beijing, CEDAW, the National Development Plan, and the Sustainable Development Goals, amongst others. Our collective action must place us on a pathway towards women's inclusion, advancement and leadership which are all central elements in the advancement and the broadening of the economy.

As a collective, we must commit that in the next five year, we will enforce the implementation of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 and the Employment Equity Act 55 of 1998 by all sectors of society in order to promote equality between women and men in order to reach parity by 2030 as required by the AU Agenda 2063. With respect to the implementation of the basket of equality legislation, Parliament has embarked on an extensive external review to delve much deeper into the tangible impact of policy and the often unintended consequences that legislation bring about.

This is done in an endeavour to move us forward faster.

We must commit to monitor and evaluate compliance with the Employment Equity Act by all sectors and use every means at our disposal to ensure compliance where there is deliberate failure to comply with it.

We must also commit that in the next five years we will develop mechanisms to enforce both public and private sectors to implement the Code of Good Practice on equal pay for work of equal value.

We must also ensure that women's unpaid labour is valued and their contribution is recognised officially. We must ensure that our people are informed and educated in respect of their legal rights.

We must commit to develop a Gender Responsive Planning and Budgeting Framework that will guide and provide norms and standards to national and all provincial and local governments to mainstream women's empowerment in financial allocation and expenditure.

In the promotion of gender equality and the empowerment of women as agents of change and leaders in the development processes which shape our lives, we should build a more inclusive, sustainable and resilient world.

As we celebrate International Women's Day and commemorate the 60th anniversary of the women's march in 1956, join me in supporting the call to fulfil the promises made in 1956 and in Beijing 22 years ago to realise a world and a country in which every woman and girl has the opportunity to fulfil her potential and enjoy equal rights and status.

Progress for all women is equal to sustained progress for All!

<http://www.gov.za/speeches/progress%ADall%ADwomen%AD8%ADmar%AD2016%AD00003/3>

Deputy President Cyril Ramaphosa: Launch of National Campaign for Girls and young Women - 24 June 2016

The launch of this campaign – led by young people for young people – is an important milestone in our country's journey towards youth empowerment and the achievement of an AIDS-free generation. This innovative campaign aims to mobilise all sections of society to address five critical challenges facing young people.

These challenges include the high number of new HIV infections among adolescent girls and young women, high rates of teenage pregnancy, poor retention of learners in high schools, high rates of sexual and gender-based violence, violence and high rates of youth unemployment.

Despite our remarkable success in saving lives through the provision of free treatment for people living with HIV and AIDS, it is estimated that nearly 2 000 girls and young women between the ages of 15 and 24 get infected by HIV in this country each week. This is highest rate of new HIV infections in any age or gender category.

This is one of the highest rates in the world and is the reason that we are launching an ambitious and innovative campaign targeting this group of highly vulnerable young people. This campaign is informed by the knowledge that HIV thrives on ignorance, in conditions of poverty and in situations of unequal gender relations. It thrives on unsafe sex, destructive behaviour and the abuse of alcohol and drugs.

By supporting their peers and taking the lead, young people are working to change this narrative. The campaign seeks to build the confidence of women, build their resilience and unlock their strength and worth.

The achievement of an AIDS-free generation requires a fundamental change in sexual behaviour. This campaign will therefore reach out to men.

It will encourage men – both young and older – to use condoms, stick to one sexual partner and not to prey on younger girls and women.

It will encourage men to play a central role in promoting safer sexual behaviour and in bringing an end to violence and abuse

Only a comprehensive multi-sectoral campaign at the level of the community will bring about this change.

All government departments will work with NGOs in the communities through our national, provincial and local AIDS councils to ensure this campaign succeeds.

I want to make a special plea to our mayors to take up the leadership of this campaign in their municipalities. Girls and boys, women and men, need to assume responsibility for preventing teenage pregnancy, which diminishes the life opportunities for young women. Young people, with the support of their parents, caregivers, communities and government, will be at centre of national efforts to keep girls in school until matric.

That is because education provides an opportunity to overcome the impediments to a successful, fulfilling life.

As our late President Nelson Mandela said:

"It is through education that the daughter of a peasant can become a doctor, that a son of a mineworker can become the head of the mine, that a child of farm workers can become the president of a great nation."

This campaign deliberately aims to increase economic opportunities for young people, particularly young women.

We urge young women and girls to be part of decision-making in their schools, clinics and communities.

This campaign will encourage greater use of services provided by government and other stakeholders.

Ladies and Gentlemen, We extend heartfelt gratitude to all our social and development partners who are already doing critical work to reduce HIV infection rates, teenage pregnancy, gender-based violence and high rates of unemployment among young women. In April this year, the US Government approved a \$68 million grant for the DREAMS project which will be implemented in partnership with South African National AIDS Council (SANAC) and the South African government. This project will reach girls and young women in 19 municipalities in Gauteng and KwaZulu-Natal.

The Global Fund has committed an additional \$62 million towards our national campaign to prevent new HIV infections among young women.

The German government has also committed 12 million euros to implement a similar programme targeting young women in the Buffalo City Municipality.

It is our intention to expand this programme over the next three years to all 51 municipalities throughout the country in which we have witnessed a high incidence of new HIV infections and high levels of teenage pregnancy.

The launch of this campaign should be a day of great celebration.

We must celebrate because our young people are reclaiming their power, reclaiming their dignity and reclaiming their future. We celebrate these young people, who, in asserting their agency, are defying darkness, ignorance and hopelessness.

They are reminding us that young people carry the dreams of the nation.

Together with our partners, we are encouraged, inspired and determined to support them.

They are acting today – and taking action now – to achieve an AIDS-free generation in their lifetime and to seize the opportunities that our democracy has brought us.

As we remember the courage and heroism of the 1976 generation during youth month, we should also recall the lives of Gugu Dlamini and Nkosi Johnson.

They are South African champions who gave a face to the HIV pandemic. They died fighting for access to treatment.

They died fighting against prejudice, stigma and discrimination against people living with HIV.

Today, South Africa has the largest antiretroviral treatment programme in the world, our policies prohibit discrimination against people living with HIV, and we have programmes in place to create awareness and fight stigma.

As we approach the International AIDS Conference in Durban next month, we can declare with confidence that your generation will lead us to a brighter future.

As Madiba said, “Sometimes it falls upon a generation to be great. You can be that great generation. Let your greatness blossom.”

You – our youth – are that great generation. You – our youth – will move South Africa forward!

<http://www.gov.za/speeches/remarks-deputy-president-cyril-ramaphosa-launch-national-campaign-girls-and-young-women-0>

2017

President Zuma calls on nation to unite against the killing and attacks on women and children, 16 May 2017

President Jacob Zuma has called on South Africans to unite against the recent attacks and killing of women and children as well as human trafficking, following separate gruesome killings of women and children in some parts of the country.

"We are outraged and seriously concerned about the reports of the abuse and killing of women and children in some parts of the country. We are especially extremely concerned that in most cases, these attacks occur in the hands of family members or in the case of women, their intimate partners.

The nation must forge a united front with the law enforcement authorities, government and all sectors of society in fighting this appalling scourge and isolate these criminals in society but within the ambit of the law," said the President.

The President reiterated that violence against women had been declared a priority crime by government. "Many perpetrators were being caught and are given long jail terms because of the cooperation of the public by coming forward with information", he added.

The President has further urged victims of violence not to be intimidated and to report the perpetrators to the police to ensure that the law takes its swift course.

"Victims should not turn a blind eye to violence in their intimate relationships, at home work or at school but should immediately report perpetrators incidents to authorities before such abuse intensifies and leads to murder," said President Zuma.

President Zuma has further encouraged the victims to utilise the 24-Hour Gender-based violence Command Centre hotline run by the Department of Social Development, to report attacks, including those by family members or partners.

The Toll-free number is 0800 428 428

President Zuma has also urged the public to join government in eradicating the crime of human trafficking, particularly the trafficking of young girls, which is growing increasingly not only in South Africa but across the globe.

"Human trafficking is modern day slavery. It is a gross violation of human rights and is a very serious crime and should be prevented at all costs. We call on community members who have information or any knowledge of such activities to report perpetrators to the police. Let us protect our girls," President Zuma said.

To date, Government has enacted Combating of Trafficking in Persons Act, 2013 (Act No.7 of 2013), which is aimed at effecting international agreements which includes the Palermo Trafficking in Persons (TIP) Protocol.

"Government will continue to raise awareness to educate and sensitise communities on the effects of human trafficking. We must unite in fighting these scourges and attacks on the most vulnerable members of our society, our women and children," said the President.

<http://www.gov.za/speeches/president%ADzuma%ADcalls%ADnation%ADunite%ADagainst%ADkilling%ADand%ADattacks%ADwomen%ADand%ADchildren%AD16%ADmay1/2>

Department of Women on violence against women, 17 May 2017

Recent media headlines of women and children abused, raped, murdered, burned and buried in attempts to hide traces remind us of the vulnerability of women and girl children at the hands of men. There are many other women currently missing – who may never be found.

GBV remains one of the most critical challenges facing our communities today. The recent disturbing developments sketch a grim reality that women continue to face in our society.

While some of these cases have caught the media's attention – we should always bear in mind that there are equally brutal cases of many other women suffering at the hands of men – whose pain and suffering remains unknown. It therefore requires that we all do our part in our homes, communities and various institutions including places of work to prevent violence.

The trauma – the grief and emotional scars left by these experiences on family members and the community – take time to heal – and sometimes they never heal.

Never does one feel oneself helpless as in trying to speak comfort to bereavement from these horrors. We are all weeping that many so young should have a life so brief.

We need to do more to intensify programmes that aim to prevent the abuse of women and children. We also need to do more to focus on boys and young men so that they become better members of our society tomorrow. We call on community leaders to engage with their communities to help prevent the abuse and violence against women and children 365 days of the year.

<http://www.gov.za/speeches/violence%ADagainst%ADwomen%AD17%ADmay%AD2017%AD00001/2>

Stop killing young women, 17 May 2017

Pretoria - Gauteng Social Development MEC Nandi Mayathula-Khoza has called on Gautengens to declare an end to the senseless killings of defenceless young women.

The MEC's call follows the second murder of a Soweto woman, Lerato Moloi, 27, from Naledi, who was brutally murdered and her body set alight. Moloi's remains were discovered by passers-by on the railway track near the Naledi Station not far from her home at the weekend.

"This is a very sad chapter in our history as a nation. We cannot stand when such barbarism rises to take over our lives. We would like to take this opportunity to call upon the people of Gauteng to declare an end to these senseless killings of defenceless young women.

"As government, we will do all in our power to ensure justice and stand by all the victims' families to help them deal with their tragic losses," MEC Mayathula-Khoza said.

She said that the Gauteng Provincial Government has stepped in to assist with the burial cost and psychosocial support for Moloi's family.

The MEC has dispatched a team of social workers today to visit the family to assist them with psychosocial support.

She is also expected to visit the family on Thursday to pay her respects and send condolences to the family.

Meanwhile, President Jacob Zuma on Tuesday called South Africans to unite against the recent attacks and killing of women and children.

"We are outraged and seriously concerned about the reports of the abuse and killing of women and children in some parts of the country. We are especially extremely concerned that in most cases, these attacks occur in the hands of family members or in the case of women, their intimate partners.

"The nation must forge a united front with the law enforcement authorities, government and all sectors of society in fighting this appalling scourge and isolate these criminals in society but within the ambit of the law," said the President.

The President reiterated that violence against women had been declared a priority crime by government.

"Many perpetrators were being caught and are given long jail terms because of the cooperation of the public by coming forward with information," said President Zuma.

The President has further urged victims of violence not to be intimidated and to report the perpetrators to the police to ensure that the law takes its course.

"Victims should not turn a blind eye to violence in their intimate relationships at home, work or at school. [They] should immediately report perpetrators to authorities before such abuse intensifies and leads to murder," said President Zuma.

President Zuma has further encouraged the victims to call the 24-Hour Gender-based violence Command Centre hotline run by the Department of Social Development, to report attacks, including those by family members or partners.

The toll-free number is 0800 428 428. - SAnews.gov.za

<http://www.sanews.gov.za/south%ADafrica/stop%ADkilling%ADyoung%ADwomen1/2>

Annex 4: Selected coverage of GBV in the South African media 2017

Ex ANCYL regional leader sentenced to 20 years for murdering girlfriend

20170511

Convicted killer and former African National Congress Youth League regional leader Patrick Wisani was on Thursday sentenced to an effective 20 years in prison for the murder of his girlfriend.

Judge Ismail Mohamed gave Wisani 20 years for murder, one year for assault and one year for intimidation.

The assault and intimidation counts would run concurrently with the murder sentence.

Read more: <http://www.news24.com/SouthAfrica/News/ex%ADancy%ADregional%ADleader%ADsentenced%ADto%AD20%ADyears%ADfor%ADmurdering%ADgirlfriend%AD20170511/3>

Rape is down? No way, say experts

20170305

Seipati Mojapelo* and her two housemates would have been unrecorded statistics had the Thohoyandou Victim Empowerment Trust, situated in Limpopo, not helped them get their rape cases registered at their local police station.

The three women were raped by robbers who stormed into their house one night. Neighbours were woken by their screams and called the police, who arrived, took their statements and left. Weeks went by with no word about progress on the case.

Read more: <http://www.news24.com/SouthAfrica/News/rape%ADis%ADdown%ADno%ADway%ADsay%ADexperts%AD20170305%AD21/3>

Shabangu clarifies 'weak' Karabo comment

20170524

Minister of Women in the Presidency Susan Shabangu was trying to say murdered Karabo Mokoena was "vulnerable" when she called her "weak".

Mokoena, like many women, was simply in a relationship that ultimately led to her death, Shabangu told journalists at Parliament on Wednesday.

"I just wanted to say, Karabo was vulnerable. Karabo was in a relationship where she thought it would work for her, but it led to her unfortunate death."

Read more: <http://www.news24.com/SouthAfrica/News/shabangu%ADclarifies%ADweak%ADkarabo%ADcomment%AD20170524/3>

Joint Parliament meeting agrees to discuss violence against women

20170524

The chairpersons of three Parliament portfolio committees will convene a joint meeting to debate the ongoing scourge and rise of violence against women in SA.

Police committee chairperson Francois Beukman said in Parliament on Wednesday that a joint meeting between the police, justice and women portfolio committees would take place, following a number of highly publicised murders of women, allegedly at the hands of men they knew.

Read more: <http://www.news24.com/SouthAfrica/News/joint%ADparliament%ADmeeting%ADagrees%ADto%ADdiscuss%ADviolence%ADagainst%ADwomen%AD20170524/2>

Why we are saying men are trash

20170514 - Rhodé Marshall

The late Karabo Mokoena's beautiful smile has sparkled across my timeline for more than a week. Her friends and family have been pleading for help finding her since her disappearance on April 28.

Then that smile was replaced by pictures of what's believed to be the place where her body was burnt.

"The boyfriend confessed. He killed and burnt my daughter," read a Facebook post by her father.

I can't begin to imagine the rage her family and friends must be feeling. Someone they trusted, who pretended not to know where she was, who "helped" look for her, had taken her life.

Read more: <http://www.news24.com/Columnists/GuestColumn/why%ADwe%ADare%ADsaying%ADmen%ADare%ADtrash%AD20170514%AD21/3>

Gender-based violence: Government steps up, but Department of Women limps along

24052017

There is reason to be cautiously hopeful that this may be the moment that government gets serious about tackling gender-based violence. A spate of horrific murders of women and young girls have caused an outcry that cannot be ignored, and there have been promising signs in the last few days to suggest that the issue is assuming the priority status it should always have held. But if you want to stay optimistic, paying close attention to the messages of the Department of Women is probably not advisable. By REBECCA DAVIS.

Read more: <https://www.dailymaverick.co.za/article/2017%AD05%AD24%ADgender%ADbased%ADviolence%ADgovernment%ADsteps%ADup%ADbut%ADdepartment%ADof%ADwomen%ADlimps%ADalong/#.WSk4b2h97IU>

Annex 5: Summary of Existing Laws and Policies addressing GBV

South African Constitution (1996)

- The Bill of Rights includes: the right to equality; the right to dignity and to have one's dignity respected and protected; the right to freedom and security of person (i.e. the right to be free from all forms of violence and the right to bodily and psychological integrity); the right to privacy; the right of children to be protected from abuse; the right to have access to health care; the right to have access to information; the right to just administrative action; and the right of access to courts
- Under section 27, citizens have the right to emergency health services. However, there is currently no case law on whether rape care or PEP are considered emergency services.

Domestic Violence Act (1998)

- This Act places positive duties on police regarding the protection of persons in a domestic relationship (which is defined broadly to include marriage, domestic partnership between the same or opposite sex partners, children, family members, roommates, and casual dating relationships).
- The Act broadly defines domestic violence in order to include an extensive list of abuses.
- Complainants may apply for protection orders in order to force a separation between themselves and their abuser. The Act places positive duties on court officials to hear cases pertaining to domestic violence and enact the protection orders.

Sexual Offences Act (2007)

- This Act expands the definition of rape (e.g. it ensures rape within marriage is classified as rape) and creates a number of new crimes. The Act removes the cautionary rule, where rape survivors' testimony was to be regarded with suspicion. In addition, the Act specifies minimum sentences for certain categories of sexual violence, including minimum life sentences in cases of rape where the victim was raped more than once, is under the age of 16, is physically disabled or mentally ill and several other circumstances.
- In addition the SOA specifies a range of responsibilities and requirements for the South African Police Service, the health system, and the judiciary:

SAPS Requirements:

- o National Instructions:¹ The National Commissioner of SAPS is required to issue national instructions on sexual offenses. These instructions include those on: how police should deal with the reporting of a sexual offense, how these cases should be investigated; when/why cases may be discontinued; when police may apply for perpetrator HIV testing and how to deal with applications for compulsory HIV testing including confidentiality issues; how police should execute court orders
- o Training:² Requires development of training courses to maximise the number of police officers who can deal with sexual offenses. SAPS must create, implement and report on trainings.
- o Reporting: Annual reporting to Parliament on implementation of SOA.

Health-care Provisions

- o Provision of PEP
 - No right to PEP in the law ["victims may receive PEP"], thus unclear whether or not rape survivors' entitlement to PEP is actionable.
 - No treatment clause that guarantees a right to other treatment in addition to PEP, but survivors must be informed of the need to obtain medical advice and assistance regarding STIs.
 - Despite misperceptions among health-care workers, provision of PEP at a health facility does not depend on laying a charge with the police first.
- o Designation of health facilities for forensic exams and medical treatment of survivors
 - DOH National Policy Guidelines, National Instructions and National Directives focus on advising caregivers about working with the court on evidence gathering; uniform procedures on forensic exams – how to treat victims etc.
- o Compulsory HIV testing of alleged offenders
 - Duties of police and medical professionals regarding HIV testing of perpetrators is outlined in law (not left to policy) – but does not specify sufficiently about required training for these professionals.

¹ Written in 2008 but not publicly published until 2011.

² There have been repeated public acknowledgements of the inadequacy of training. No specific mention in budgeting of funds required to implement DVA and SOA. SAPS has sought foreign donor funds (USAID) to support some activities

Judicial System Provisions:

- o Includes a set of revisions to evidentiary rules that had impeded successful prosecution in the past.
- o Requires the creation and regular review of a National Policy Framework³
- o Inter-sectoral Committee established to measure progress on NPF objectives.
- o Requires Parliamentary reporting.

National Policy Framework for the Management of SOA (2013)

- The NPF commits to the “progressive realization” of all the requirements throughout the document, but provides no timelines for that realization.
- Acknowledges that “interventions must be appropriately costed and resourced”, but does not offer sufficient specifics.
- Deemed insufficient by several civil society actors.

Judicial Matters Second Amendment Act (2013/2014)

- Signed in January 2014, providing legal framework for establishment of Sexual Offences Courts. The law safeguards the future existence of these courts, but does not provide a clear roadmap for implementation, standards, functioning for DOJCD.

Additional Relevant Laws and Policies:

Medium Term Strategic Framework for 2009-2014

- Crime and corruption listed as a national priority in MTSF, as well as the more recent National Planning Commission.

Prevention and Combating of Trafficking in Persons Act 7 of 2013

- This Act provides for the prevention of the crime of trafficking and for the protection and assistance to victims of trafficking
- Trafficking is an example of GBV, therefore this Act is relevant in the consideration of GBV eradication and prevention strategies

Protection from Harassment Act 17 of 2011

- Harassment is an example of GBV
- This Act provides for complainants to apply to the court for a protection order – the court must consider the application and may issue an interim protection order, which may be finalised at a later date

Child Justice Act 75 of 2008

- This Act provides for the protection of rights of children; and the special treatment of children in the justice system, including the use of restorative justice processes (such as diversion)
- This Act applies to children under the age of 10, up to the age of 18, who have committed a criminal offence

Service Charter for Victims of Crime (Victims' Charter) of 2004

- Focuses on treating victims with respect and dignity; encourages participation of the victim in the process; and ensures protection and support services for victims
- Minimum Service Standards for Victims of Crime was developed in conjunction
- Critiqued as not having much weight because there was no associated budget or implementation plan (Dey 19)

Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000

- This Act defines discrimination on the ground of gender to include GBV.

Film and Publications Act 65 of 1996

- Provides for the establishment of the Film and Publication Board whose role includes combating child pornography and the negative stereotyping and representation of women

Criminal Procedure Act 51 of 1997

- This Act further amended the provisions relating to bail to ensure that persons who are accused of having committed serious offences are not released on bail. These offences often involve women and children as victims.

South African Police Services Act 68 of 1995

- National Commissioner must develop an annual plan with priorities and objectives for the next fiscal year, and a report on that plan must be submitted within 3 months of the end of the fiscal year.

National Strategic Plan for HIV, TB and STIs in South Africa 2017-2022

- The new NSP identifies GBV as a social and structural driver of HIV. It further posits that Social and Behavioural Change Communication (SBCC) will be a critical enabler for achieving the goals of the NSP and within this context references GBV within the context of government programmes like 'SheConquers' and 'GBV campaigns'.
- Operationally it promotes initiatives like SBCC, addressing gender norms and GBV within comprehensive sexuality education and under several objectives lists GBV screening as a proposed intervention.
- Interestingly, it proposes 'Finalise and implement National Gender-based Violence Plan' as an intervention under the sub-objective: Increase access to provision of services for all survivors of sexual and GBV.
 - The status of this plan is unclear and seem to be driven by civil society at the moment, no government ministry has taken the lead with this plan
- The NSP offers little context or specifics on GBV and takes a 'treatment of the symptoms' approach does not offer much on prevention of GBV, nor treating the underlying root causes or drivers.

GBV-related commitments ratified by the South African government

UN commitments

Report of the UN High Commissioner for Human Rights: Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity (2011)

- State have several obligations to prevent violence and discrimination based on sexual orientation and gender identity. Namely: (1) To protect the right to life, liberty and security of persons irrespective of sexual orientation or gender identity; (2) To prevent torture and other cruel, inhuman or degrading treatment on grounds of sexual orientation or gender identity; (3) To protect the right to privacy and against arbitrary detention on the basis of sexual orientation or gender identity; (4) To protect individuals from discrimination on grounds of sexual orientation and gender identity; (5) To protect the right to freedom of expression, association and assembly in a non-discriminatory manner.
- All people, including lesbian, gay, bisexual and transgender (LGBT) persons are entitled to enjoy these protections.
- Beijing Declaration and Platform of Action (1995)
- The long-standing failure to protect and promote those rights and freedoms in the case of violence against women is a matter of concern to all States and should be addressed
- Developing a holistic and multidisciplinary approach to the challenging task of promoting families, communities and States that are free of violence against women is necessary and achievable.
- In addressing violence against women, governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes
- Action to be taken by governments:
 - 1) Condemn violence against women and refrain from invoking any custom, tradition or religious consideration to avoid their obligations with respect to its elimination
 - 2) Refrain from engaging in violence against women and exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;
 - 3) Enact and/or reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence, whether in the home, the workplace, the community or society;
 - 4) Adopt and/or implement and periodically review and analyse legislation to ensure its effectiveness in eliminating violence against women;
 - 5) Work actively to ratify and/or implement international human rights norms and instruments as they relate to violence against women;
 - 6) Implement the Convention on the Elimination of All Forms of Discrimination against Women;
 - 7) Promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes related to violence against women;
 - 8) Provide women who are subjected to violence with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm they have suffered and inform women of their rights in seeking redress through such mechanisms;
 - 9) Enact and enforce legislation against the perpetrators of practices and acts of violence against women, such as female genital mutilation, female infanticide, prenatal sex selection and dowry- related violence, and give vigorous support to the efforts of non-governmental and community organizations to eliminate such practices;
 - 10) Formulate and implement, at all appropriate levels, plans of action to eliminate violence against women;
 - 11) Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women, and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women;
 - 12) Create or strengthen institutional mechanisms so that women and girls can report acts of violence against them in a safe and confidential environment, free from the fear of penalties or retaliation, and file charges;
 - 13) Ensure that women with disabilities have access to information and services in the field of violence against women;

- 14) Create, improve or develop as appropriate, and fund the training programmes for judicial, legal, medical, social, educational and police and immigrant personnel, in order to avoid the abuse of power leading to violence against women and sensitize such personnel to the nature of gender-based acts;
 - 15) Adopt laws, where necessary, and reinforce existing laws that punish police, security forces or any other agents of the State who engage in acts of violence against women in the course of the performance of their duties;
 - 16) Allocate adequate resources within the government budget and mobilize community resources for activities related to the elimination of violence against women;
- Action to be taken by government, CSOs, NGOs, educational institutions, and the public and private sector:
 - 1) Provide well-funded shelters and relief support for girls and women subjected to violence, as well as medical, psychological and other counselling services and free or low-cost legal aid
 - 2) Establish linguistically and culturally accessible services for migrant women and girls
 - 3) Support initiatives of women's organizations and non-governmental organizations all over the world to raise awareness on the issue of violence against women and to contribute to its elimination;
 - 4) Organize, support and fund community-based education and training campaigns to raise awareness about violence against women;
 - 5) Recognize, support and promote the fundamental role of intermediate institutions, such as primary health-care centres, family-planning centres, existing school health services, mother and baby protection services, centres for migrant families and so forth in the field of information and education related to abuse;
 - 6) Organize and fund information campaigns and educational and training programmes in order to sensitize girls and boys and women and men to the personal and social detrimental effects of violence in the family, community and society;
 - 7) Disseminate information on the assistance available to women and families who are victims of violence;
 - 8) Provide, fund and encourage counselling and rehabilitation programmes for the perpetrators of violence and promote research to further efforts concerning such counselling and rehabilitation so as to prevent the recurrence of such violence;
 - 9) Raise awareness of the responsibility of the media in promoting non-stereotyped images of women and men

UN Declaration on the Elimination of Violence against Women (1993)

- States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women:
 - 1) Refrain from engaging in violence against women;
 - 2) Prevent, investigate and punish acts of VAW;
 - 3) Develop sanctions to punish and redress the wrongs caused to women
 - 4) Develop national plans of action to promote the protection of women against any form of violence
 - 5) Develop preventative approaches;
 - 6) Include in government budgets adequate resources for their activities related to the elimination of violence against women;
 - 7) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women;
 - 8) Promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress violence against women; those statistics and findings of the research will be made public;
 - 9) Adopt measures directed towards the elimination of violence against women who are especially vulnerable to violence;
 - 10) Foster international and regional cooperation with a view to defining regional strategies for combating violence, exchanging experiences and financing programmes relating to the elimination of violence against women; and promote meetings and seminars with the aim of creating and raising awareness among all persons of the issue of the elimination of violence against women.

Vienna Declaration and Programme of Action (1993)

- The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.
- GBV and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated. This can be achieved by legal measures and through national action and international cooperation in such fields as economic and social development, education, safe maternity and health care, and social support.

UN Convention on the Rights of the Child (1990)

- States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse
- States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
- States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.
- States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

UN Convention on the Elimination of All forms of Discrimination Against Women (1981)

- States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women
- States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women; and to suppress all forms of traffic in women and exploitation of prostitution of women.

International Covenant on Civil and Political Rights (1976)

- States Parties undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

International Covenant on Economic, Social and Cultural Rights (1976)

- States Parties undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Universal Declaration of Human Rights (1948)

- Everyone has the right to life, liberty and security of person. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

AU commitments

AU Gender Policy (2009)

- The desired effect and impact of this Policy is to offer opportunities for empowerment of women, guarantee their protection against violence and rape, as well as ensure their participation in public and economic life. To achieve this, a paradigm shift is inevitable.
- One objective of the Policy is to promote the development of guidelines and enforcement of standards against sexual and GBV and gender insensitive language and actions in the workplace

African Youth Charter (2006)

- Include as part of the education curricula issues such as HIV/AIDS, reproductive health, substance abuse prevention and cultural practices that are harmful to the health of young girls and women
- State parties should eliminate all traditional practices that undermine the physical integrity and dignity of women
- State Parties should enact and enforce legislation that protects girls and young women from all forms of violence, genital mutilation, incest, rape, sexual abuse, sexual exploitation, trafficking, prostitution and pornography

AU Solemn Declaration on Gender Equality in Africa (2004)

- Initiate, launch and engage within two years sustained public campaigns against gender-based violence as well as the problem of trafficking in women and girls
- Reinforce legal mechanisms that will protect women at the national level and end impunity of crimes committed against women in a manner that will change and positively alter the attitude and behaviour of the African society

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)

- States Parties undertake to combat all forms of discrimination against women at all levels and in all fields: ensure that men and women have the same rights; and enact and effectively implement appropriate laws or regulatory measures that prohibit and punish harmful practices which endanger the health and general well-being of women
- Women shall be protected against all forms of violence, particularly sexual violence such as rape, or sexual harassment
- States Parties shall take appropriate and effective measures to:
 - 1) Enact and enforce laws to prohibit all forms of violence against women including physical violence such as beating a woman, verbal abuse such as slurs or harassment, and rape, sexual relations that men force on women without their consent, be it in the marital home, workplace, on the farm or any other place;
 - 2) Enact such laws as may be necessary in society to ensure the existence of economic resources and measures to ensure the prevention of all forms of violence, all forms of suffering against women;
 - 3) Identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;
 - 4) Punish the perpetrators of violence against women;
 - 5) Establish mechanisms and accessible services for information distribution, rehabilitation and reparation for female victims of violence against women;
 - 6) Prevent and condemn trafficking in women, including women and girls that are sent from one village to another or from one country to another to be sexually or economically exploited. Women exposed to this type of danger should be protected. Those who traffic in or exploit women should be punished;
 - 7) Prohibit all medical or scientific experiments on women without their informed consent;
 - 8) Provide adequate budgetary and other resources for the implementation and monitoring of actions aimed at preventing and eradicating violence against women;
- States Parties shall prohibit and condemn all forms of harmful practices which negatively affect women's human rights and which are contrary to recognized international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including: creation of public awareness; prohibition of female genital mutilation; protection of females at risk of being

subjected to harmful practice; and assist survivors by treating them in hospitals and taking legal action

- Furthermore, states must protect women, especially girls, from all forms of abuse, including sexual harassment in schools; provide protection to elderly women against violence, including sexual abuse, discrimination based on age and the right to be treated with dignity; and ensure the right of women with disabilities to freedom from violence, including sexual abuse.

African Charter on the Rights and Welfare of the Child (1999)

- States Parties shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.
- States Parties shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular: those customs and practices discriminatory to the child on the grounds of sex or other status.
- States Parties shall undertake to protect the child from all forms of sexual exploitation and sexual abuse (i.e. coercion to engage in sexual activity; pornography; prostitution)

African Charter on Human and People's Rights (1986)

- The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

SADC commitments

SADC Protocol on Gender and Development (2008)

- State Parties shall enact and enforce legislative and other measures to eliminate GBV
- State Parties shall adopt laws, policies and programmes to ensure the development and protection of the girl child by protecting girls from...all forms of violence including sexual abuse
- State Parties shall provide support services, namely: accessible information on services available to survivors of GBV; accessible, effective and responsive police, prosecutorial, health, social welfare and other services to redress cases of GBV; accessible, affordable and specialized legal services to survivors of GBV; specialized facilities (including support mechanisms) for survivors of GBV; and effective rehabilitation/reintegration programmes for perpetrators of GBV
- State Parties shall introduce, promote and provide gender education and training to service providers involved with GBV; and community sensitisation programmes
- State Parties shall work to achieve the following:
 - 1) Adopt and implement gender sensitive educational policies/programmes addressing gender stereotypes in education and gender-based violence
 - 2) Enact and enforce legislation prohibiting all forms of gender-based violence; and ensure that perpetrators of GBV (i.e. domestic violence, rape, femicide, sexual harassment, female genital mutilation) are tried by a court
 - 3) Ensure that laws on GBV provide for the comprehensive testing, treatment and care of survivors of sexual offences
 - 4) Review and reform their criminal laws and procedure applicable to cases of GBV
 - 5) Put mechanisms in place to prevent and deal with trafficking
 - 6) Put in place mechanisms for the social and psychological rehabilitation of perpetrators of GBV
 - 7) Ensure that cases of GBV are conducted in a gender sensitive environment
 - 8) Establish special counselling services, legal and police units to provide dedicated and sensitive services to survivors of GBV
 - 9) Take measures to discourage traditional norms which legitimize and exacerbate the persistence/tolerance of GBV with a view to eliminate it
 - 10) Introduce and support gender sensitisation and public awareness programmes aimed at changing behaviour and eradicating GBV

SADC Gender Policy (2007)

- SADC Member States shall promote an environment of zero tolerance to gender-based violence at all levels in order to provide a secure region where women, men, girls and boys are safe and free to equitably contribute to and benefit from the region's development.
- A key Policy objective is to prevent and eliminate all forms of GBV in public and private spheres. To achieve this objective SADC members will undertake to:
 - 1) Promote the enactment, strengthening and implementation of laws against gender-based violence, particularly domestic violence, sexual offences, femicide and human trafficking, enforcing stiff penalties for perpetrators;
 - 2) Compile a regional directory of decided cases on gender-based violence for reference by magistrates and judges;
 - 3) Establish codes of conduct in all institutions at national level to define and prohibit sexual harassment in all spheres and design deterrent sanctions thereto;
 - 4) Adopt specific measures for ensuring provision of post exposure prophylaxis to survivors of sexual assault and provide counselling services and information centres to create awareness of available services;
 - 5) Facilitate increased recognition of violence against women, girls and boys as a social problem requiring commitment from government, civil society and all citizens to eliminate it
 - 6) Conduct gender sensitisation and public awareness campaigns directed towards both women and men to enable greater awareness of legal, human and women's rights, and the legal and social-economic consequences of abusive behaviour, as well as the impact on future generations;
 - 7) Establish partnerships among the public sector, civil society, private sector, local communities, those in leadership positions and other institutions such as the media and development partners to formulate and implement integrated gender-based violence

- programmes including counselling, legal, medical and police protection units;
- 8) Provide the review of examinable school curriculum to include the concept of gender-based violence and other forms of violence and their devastating impact and means of gaining self-esteem and confidence to combat them;
 - 9) Design programmes for reaching out to vulnerable groups, especially those with disabilities and special needs to protect them against gender-based violence;
 - 10) Enhance the capacity of law enforcement institutions to implement gender responsive policies and programmes that address gender-based violence;
 - 11) Design and implement programmes aimed at eradicating all harmful traditional norms, beliefs, attitudes and practices that legitimize and exacerbate the persistence and tolerance of gender-based violence at all levels;
 - 12) Design programmes aimed at addressing perpetrators of gender-based violence and other forms of violence against women and girls;
 - 13) Encourage sharing of best practices within and among member states on mitigation programmes including the establishment and operations of victim support units, survivor shelters, as well as the monitoring of such interventions;
 - 14) Establish and disseminate regional and national data on gender-based violence and devise appropriate mechanisms for measuring reduction of cases at different levels; and
 - 15) Establish and strengthen comprehensive shelters for victims of GBV.

Prevention and Eradication of Violence against Women and Children; addendum to the SADC Declaration on Gender and Development (1998)

- Existing measures to protect women and children against violence have proved inadequate, ineffective and biased against the victims.
- Therefore the following measures must be adopted:
 - 1) Enacting laws such as sexual offences and domestic violence legislation making various forms of violence against women clearly defined crimes, and taking appropriate measures to impose penalties, punishment and other enforcement mechanisms for the prevention and eradication of violence against women and children;
 - 2) Reviewing and reforming the criminal laws and procedures applicable to cases of sexual offences, to eliminate gender bias and ensure justice and fairness to both the victim and accused;
 - 3) Introducing, as a matter of priority, legal and administrative mechanisms for women and children subjected to violence, effective access to counselling, restitution, reparation and other just forms of dispute resolution;
 - 4) Adopting such other legislative and administrative measures as may be necessary to ensure the prevention and eradication of all forms of violence against women and children;
 - 5) Promoting the eradication of elements in traditional norms and religious beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women and children;
 - 6) Introducing and supporting gender sensitisation and public awareness programmes aimed at eradicating violence against women and children;
 - 7) Providing easily accessible information on services available to women and children victims/survivors of violence;
 - 8) Ensuring accessible, effective and responsive police, prosecutorial, health, social welfare and other services, and establishing specialised units to redress cases of violence against women and children;
 - 9) Providing accessible, affordable and specialised legal services, including legal aid, to ensure the just and speedy resolution of matters regarding violence against women and children;
 - 10) Providing easily accessible, affordable and, where possible, free social, and administrative services for the empowerment of women and children victims/survivors of violence;
 - 11) Encouraging the exchange of national, regional and international best practices for the eradication of violence against women and children;
 - 12) Ensuring that all these measures are implemented in an integrated manner by all stakeholders;
 - 13) Allocating the necessary resources to ensure the implementation and sustainability of the above programmes

SADC Declaration on Gender and Development (1997)

- Member States commit themselves to:
 - 1) Repealing and reforming all laws, amending constitutions and changing social practices which still subject women to discrimination, and enacting empowering gender sensitive laws;
 - 2) Protecting and promoting the human rights of women and children;
 - 3) Recognising, protecting and promoting the reproductive and sexual rights of women and girl child;
 - 4) Taking urgent measures to prevent and deal with the increasing levels of violence against women and children

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at
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ENDNOTES

- ¹ Kate O'Regan, later a judge of the Constitutional Court in the new South Africa, co-authored a view of constitutional law and social justice that captures FEDSAW's historical prescience. See: H. Corder, S. Kahanovitz, J. Murphy, C. Murray, K. O'Regan, J. Sarkin, H. Smith, and N. Steytler A Charter for Social Justice: A Contribution to the South African Bill of Rights Debate. Appointed to the Constitutional Court in 1994 O'Regan authored judgements establishing the connection between the right to equality and dignity and delineating socio-economic rights. Her two dissenting opinions from the Bench are also noteworthy-- she showed how the Constitution could interpret social just criminalisation of sex work (and not its solicitation) discriminates on the basis of gender and is therefore unconstitutional; and that the Court could open the way for same-sex marriage without parliamentary review.
- ² The Freedom Charter was inaugurated just over a year later, after a four-year campaign of civil disobedience, symbolised by pass burnings and peaceful demonstrations against apartheid. The collective that drafted the Freedom Charter failed to take on board some of the specific gender clauses and social framing of the Women's Charter, despite the fact that many of the campaigners and direct lobbyist and grass roots organiser for the Congress of the People were women in FEDSAW many of whom expressed disappointment in the dismissal of the radical calls in the Women's Charter by male leadership.
- ³ The work of leading feminist economists, as well as social justice theorists, philosophers and historians such as Heidi Hartmann; Jacqueline Jones, Naila Kabeer; Amartya Sen, Thomas Piketty, John Rawls, Nancy Fraser, and in South Africa, Nicoli Nattress has been influential across the globe.
- ⁴ Through the annual Global Gender Gap Report, the World Economic Forum quantifies the magnitude of gender disparities and tracks their progress over time, focusing on gaps between women and men across four key areas: health, education, the formal economy and politics.
- ⁵ The debate between Hayek and Rawls in the Critical Review of International Social and Political Philosophy from the mid-1990s to the present aptly captures the global debate. See, for example, Lukes (1997); Tebbel (2009); and Lister (2013).
- ⁶ See news reports: <https://www.businesslive.co.za/fm/fm-fox/2017-03-02-black-sash-roasts-dlamini-over-grants/> ; <http://ewn.co.za/2017/03/15/black-sash-argues-for-con-court-to-oversee-sassa-deal> ; and the summary of their Constitutional Case at this site: Constitutional Court of South Africa: The Black Sash Trust v The Minister of Social Development and Others CCT 48/17 Date of hearing: 15 March 2017 Date of judgement: 17 March 2017 at: <http://www.politicsweb.co.za/politics/social-grants-black-sash-vs-bathabile-dlamini>
- ⁷ Also see Stansell (1998).
- ⁸ See: <http://www.mrc.ac.za/gender/gender.htm>
- ⁹ The literature on the history of gay and lesbian and trans lives in South Africa is growing rapidly. Influential texts from the last 25 years include: Mark Gevisser and Edwin Cameron's (2005) *Defiant Desire*; J. Cock (2003), *Engendering gay and lesbian rights: The equality clause in the South African Constitution*; S. Croucher (2002) *South Africa's democratisation and the politics of gay liberation*; and more recently B. Munro (2012), *South Africa and the Dream of Love to Come: Queer Sexuality and the Struggle for Freedom*; and Reddy et al (2009), *From Social Silence to Social Science: Same-Sex Sexuality, HIV & AIDS and Gender in South Africa: Conference Proceedings*.
- ¹⁰ For an elaborate discussion of the apartheid system, see Dubow (2014); Giliomee (2009: 403-633); Moodie (1975); O'Meara (1983); Posel (1991); and Van der Westhuizen (2007).
- ¹¹ These three levels correlate to the three different national poverty lines: the upper-bound poverty line, the lower-bound poverty line, and the food poverty line. In 2014, the rand value attached to these lines was, respectively, R753, R544, and R400 per capita per month (Statistics South Africa, 2014:7).
- ¹² The Women's Charter, see AD1137 RECORDS OF THE FEDERATION OF SOUTH AFRICAN WOMEN:FEDSAW Collection: WITS Historical Papers Archive. For the Inventory including copies of the Charter see: <http://www.historicalpapers.wits.ac.za/?inventory/U/collections&c=AD1137/R/7983> and <http://www.sahistory.org.za/topic/womens-charter> and see <http://www.gov.za/celebrating-60th-anniversary-womens-charter-south-africa>.

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