

Gender-Based Violence in South Africa:

Thinking Beyond Carceral Solutions

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Abstract

Gender-based violence (GBV) is an extremely common occurrence in South Africa, due in large part to the formal systems of social inequality, racism, and patriarchy that ruled the colonial and apartheid periods and whose legacies continue today. The South African Police Service (SAPS) is responsible for preventing and responding to GBV; however, they have proved to be ineffective at doing so. SAPS officers frequently dismiss GBV survivors based on stereotypes, fail to properly investigate cases, and even commit acts of GBV themselves. This paper will explore the relationship between GBV and the police in South Africa, arguing that solutions to tackle the GBV crisis must be non-carceral and community based. I will propose some potential measures that the government could implement to target GBV reduction, including increased funding to civil society organizations, financial assistance for vulnerable populations, and the decriminalization of sex work. Furthermore, I argue that GBV cannot be eliminated without addressing the deeper social issues that contribute to it.

Keywords

Gender-based violence, gender, violence, rape, intimate partner violence, South Africa, police, South African Police Service, women

Abbreviations

ANC	African National Congress
ANCWL	African National Congress Women's League
DoJ	Department of Justice
GBV	Gender-based violence
GBVF	Gender-based violence and femicide
IPID	Independent Police Investigative Directorate
IPV	Intimate partner violence
NCGBV	National Council on Gender-Based Violence
NGO	Non-governmental organization
NRSO	National Register for Sex Offenders
NSP	National strategic plan
NSPGBV	National Strategic Plan on Gender-Based Violence
NSPGBVF	National Strategic Plan on Gender-Based Violence and Femicide
SADC	Southern African Development Community
SAP	South African Police
SAPS	South African Police Service
UBI	Universal basic income

Introduction

In January 2022, a 26-year-old woman walked by foot to the police station in Brackenfell, South Africa, to report her boyfriend for assault after he hit her with a beer bottle during an argument. She spoke with the police captain, who refused to help her, saying that she was drunk (due to the smell of beer on her from the broken bottle) and that she should go home, which she did. The next day, the woman's boyfriend became violent again and she called the police. Two officers arrived at her house and agreed to drive her to a friend's house, where she would be safe. On the way, the woman asked the officers for the necessary forms to complete in order to lay charges against her boyfriend. One of the officers informed her that they did not have the forms with them but agreed to go to the police station to get them. Once at the police station, the same officer told his partner to stay while he drove the woman to her friend's house. On the drive there, the officer pulled the car over, ordered the woman into the back seat, and raped her. Following the rape, he threatened to kidnap her boyfriend and kill her if she told anyone (Tshuma, 2022). To make matters worse, the rapist did not use a condom, and, afterwards, he took steps to erase the evidence using an official police form (Ludidi, 2022).

The issue of gender-based violence (GBV), which includes femicide, rape, sexual assault, and intimate partner violence (IPV), is truly pervasive in South African society, with one in every five women over 18 having experienced physical violence and three women being killed by their partners every day (Human Rights Watch, 2018). In fact, the country's GBV problem is so widespread that South Africa has been named the "rape capital of the world" (Colpitts, 2019). GBV affects women and other gender-oppressed people, including trans, non-binary, and genderqueer people, and tends to be more common among other vulnerable populations, such as racial minorities and the poor. Apart from the experience of GBV itself being traumatic and

damaging, it also results in unwanted pregnancies, unsafe abortions, and sexually transmitted infections, including HIV, as well as long-term psychological trauma and depression (Enaifoghe et al., 2021). Police officers, who are responsible for responding to complaints of GBV, often fail to improve the situation for survivors by not taking complaints seriously, not carrying out thorough investigations, and perpetuating misogynistic stereotypes towards survivors. In some cases, police officers do even more damage by perpetrating acts of GBV themselves. In the Brackenfell case, the survivor was failed not only by the police officer who raped her, but also by the police captain who told her to go home and by all other officers at the station when she reported the initial attack by her boyfriend. This example illustrates why many survivors choose not to report their assaults; history has taught them that reporting might lead to further abuse or re-traumatization, and that police might treat them with apathy, skepticism, or judgment.

This paper will explore the role of the police in South Africa's GBV crisis. I will argue that police are not only ineffective at preventing and investigating cases of GBV, but that their attitudes and actions against women and other gender minorities contribute to the normalizing of this violence. I will also argue that police and the justice system should not be the ones responsible for dealing with GBV cases and that strategies for ending it need to be non-carceral in nature. I will suggest some potential measures not involving police that could have an impact in reducing the occurrence of GBV in South Africa. Furthermore, I will argue that, in order to make meaningful progress towards the elimination of GBV, deep-rooted systemic inequalities within South African society, which contribute to GBV, must be addressed.

Throughout this essay, I will use an intersectional lens. Intersectionality was introduced as a concept by Kimberlé Crenshaw (1989), who explained it as follows:

Black women are sometimes excluded from feminist theory and antiracist policy discourse because both are predicated on a discrete set of

experiences that often does not accurately reflect the interaction of race and gender. These problems of exclusion cannot be solved simply by including Black women within an already established analytical structure. Because the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated. Thus, for feminist theory and antiracist policy discourse to embrace the experiences and concerns of Black women, the entire framework that has been used as a basis for translating "women's experience" or "the Black experience" into concrete policy demands must be rethought and recast. (p. 141)

The challenges faced by a Black woman in a racist and misogynistic society, such as South Africa, are not simply equivalent to the challenges faced by a Black man combined with those faced by a white woman; a Black woman is subject to oppression not only because she is Black and because she is a woman, but because she is specifically a Black woman. Similarly, being queer, trans, poor, disabled, or an immigrant comes with its own challenges – socially, economically, and politically – and any combination of those identities results in an oppression that is more than the sum of each individual identity.

An intersectional framework is extremely important in considering the experience of GBV in South Africa, as many of the people affected by it are subject to intersecting forms of oppression. Failing to consider the way that various forms of oppression intersect prevents us from understanding the causes of GBV, the complex reasons for which survivors may choose not to report abuse, and the relationship between marginalized people and the state (including police and the justice system). More crucially, we will not be able to implement any truly meaningful solutions without recognizing the intersectionality of many GBV survivors and the vulnerability of people with intersecting identities to GBV. Thinking about GBV through an intersectional lens means understanding that “gender, race and class inequality shape experiences of violence”, and taking into consideration “the additional barriers many poor nonwhite women face when

attempting to address their situations of violence (e.g. the burdens of poverty and child care responsibilities) ... the failure of institutions to address these consequences of converging gender, class, and race oppression ultimately limits their ability to meaningfully intervene” (Jayasinghe & Ward, 2018).

This paper will begin by outlining the landscape of gender-based violence in South Africa since the end of apartheid, including the traditional gender roles and public perceptions that uphold the patriarchal structure that lends itself to GBV. The next section will focus on the South African Police Service (SAPS) and its role in society since 1994, touching on the remilitarization of the police force and the increase in police brutality in the 21st century, the SAPS’ handling of GBV cases, and police officers as perpetrators of GBV. Next, I will summarize efforts to combat GBV in South Africa, through the introduction of legislation, the creation of a National Strategic Plan on Gender-Based Violence and Femicide, and the work of non-governmental organizations (NGOs). Finally, I will identify some possible normative solutions to address GBV and the underlying social factors that contribute to it.

Gender-based violence in South Africa

Gender-based violence in today’s South Africa has roots in and before the apartheid regime. According to Britton (2006), the high incidences of GBV are related to patriarchal and oppressive systems that flourished during the colonial period and the apartheid era. During both periods, it was not uncommon for rape to be “used as a weapon to ensure control, obedience and interracial conformity” (p. 145). Colpitts (2019) suggests that the violence during these two periods “shaped gender relations and constructions of masculinity in South Africa” (p. 427). During the colonial period, violence was used systematically by the state to prevent resistance

from the colonized and to remove Black South Africans from their land. South Africa's apartheid system, which has been widely recognized as one of the cruellest regimes in history, subjected Black people to various forms of systemic discrimination simply on the basis of their skin colour, and state violence worked to keep Black people disenfranchised. Despite the widespread nature of patriarchal beliefs during apartheid and the fact that all women were "publicly silenced and were obstructed from participation in formal political life", white women fared far better than Black women, whose intersecting identities of race and gender pushed them to the bottom of the social hierarchy (Britton, 2006, p. 148). Since the end of the Cold War, there has been a greater availability of small arms in South Africa, which has increased even further the rates of GBV (Britton, 2006). White South Africans, who were involuntarily conscripted, were heavily armed in order to uphold apartheid, creating an even deeper power divide between Black and white, female and male (Gqola, 2007).

During apartheid, Black women experienced both racial and gender discrimination, but for the most part, the quest for "women's emancipation" was put on the backburner in favour of the struggle for liberation of Black people. Women played a fundamental role in the liberation process for Black people and the fall of the apartheid system, but their contributions largely go unrecognized and they are all but overlooked in accounts of anti-apartheid activism and political change (Orton, 2018). During the fight for liberation, women faced risk of rape, imprisonment, torture, and other forms of assault from enemy groups, as well as rape and harassment from men on their own side, which they often did not report out of loyalty and support for the greater cause (Britton, 2006). Roshila Nair (2001) summarized this phenomenon in a short poem:

let's say it out loud
about the other day
how we were talking
about that Comrade X

who went home
and gave his wife
a blue eye,
and we'd all clapped
an hour before
for the liberation
speech he gave
with such conviction.

Many fighting for liberation believed that ending apartheid would “lead to a country free of all oppressions and discrimination based on race, class, gender, sexual orientation, religion, language, geographical location, ability” (Gqola, 2007, p. 114). However, the country that they worked for, fought for, and hoped for does not yet exist. Despite some progress since the end of apartheid, South Africa remains an extremely unequal society with Black people still experiencing high levels of racism in their daily lives (Moffett, 2006). Women also continue to face disadvantages and many hardships due to their gender, in tangible ways, such as the lack of opportunities to access education, employment, and political positions (Enaifoghe et al., 2021), as well as in less tangible ways, such as social control and relegation to the domestic sphere (Vetten, 2014), South Africa is now in a situation where gender equality has not been achieved and GBV is “widespread, pervasive, underreported, and inextricably linked with other social problems” (Fakunmoju & Rasool, 2018, p. 4).

GBV has become somewhat of a hallmark of South African society, even in the post-apartheid world. Between 25 and 40 percent of South African women experience physical or sexual violence at some point in their lives, and between 12 and 28 percent of women report being raped (Gender-based violence in South Africa, 2020). South Africa also has its own particular types of gender-based violence, including “jack-rolling” “virgin cleansing”, and “corrective rape” (Fakunmoju & Rasool, 2018, p. 3). Jack-rolling refers to a multiple perpetrator rape that is usually carried out for recreational purposes. The term comes from a gang called the

Jackrollers that operated in the South African townships in the late 1980s and was known for abducting and raping women. The practice of jack-rolling, which became more popular in the 1990s and still happens today, is usually carried out in the open with no attempt to hide the rapists' identities. Jack-rolling is often perpetrated by youth; in a survey of schoolchildren in Soweto, 25 percent of the boys described jack-rolling as "fun" (Haddadi, 2014). Virgin cleansing is the rape of a young woman, child, or infant by an HIV/AIDS-infected man who believes that it will cure him of the disease; this misplaced belief contributes to incidences of child rape. Studies in the early 2000s found that between 13 and 32 percent of South Africans believed the myth of virgin cleansing, which can be attributed at least in part to insufficient education around sexual health. However, the lack of available treatments for HIV may also have influenced these high numbers; men committing these rapes may have thought it was worth a try due to not being aware of other options, even if they did not completely believe the myth (Leclerc-Madlala, 2002). Corrective or curative rape is the (typically brutal) rape of a lesbian or perceived lesbian by a straight man in an attempt to "cure" her of her homosexuality, which many South African men see as "an affront to their masculinity" (Koraan & Geduld, 2015, p. 1937). The occurrence of corrective rape puts lesbians, who are already marginalized in many ways, at increased risk and demonstrates the homophobia and fragile masculinity that are still at play in South African society.

Each year, approximately 64 000 sexual assaults are reported to the SAPS. 144 rapes are reported every day. Yet, estimates of survivors that report their rapes to police range from one in nine to one in 25. This means that the total number of rapes per day in South Africa could be as high as 3600 (Britton, 2020). Therefore, even though the reported numbers seem high, they are unable to capture to full extent of South Africa's GBV crisis. Some have argued that increases in

GBV following apartheid could be attributed to “improving education on rights, the transformation of the courts and police force, and increased reporting”. However, while those factors may have contributed to an initial spike immediately following apartheid, they do not explain the continuing upward trend (Moffett, 2006, p. 132). GBV does not occur uniformly across South African society; rather, it reflects other socioeconomic trends. Vetten (2014) describes this disparity:

Communities characterised by widespread poverty and unemployment are highlighted as being particularly prone to domestic violence because alcohol and drugs ‘interact with other internal dispositions and pathologies, such as feelings of low self-worth, the incidence of which is heightened as a result of other factors such as weaknesses in the family, the legacy of racism, and the context of inequality’ (p. 54).

It is not altogether surprising that GBV rates are higher in communities where poverty, unemployment, and substance use are common. This reinforces the reality that groups that are already marginalized are especially vulnerable to violence.

During a June 2020 address to the nation, President Cyril Ramaphosa declared gender-based violence to be South Africa’s “second pandemic”, as instances of violence against women and intimate partner violence (IPV) had risen even more steeply during the lockdown in response to the COVID-19 pandemic (Ellis, June 2020). During the lockdown, many victims of IPV were forced to stay inside with their abusers. Furthermore, difficult financial situations and high rates of unemployment reinforced their economic dependence on their partners. To make matters worse, shelters were severely underfunded during the pandemic, leaving many survivors with nowhere to go (Human Rights Watch, 2021). Roy et al. (2022) found that domestic violence shelters and other anti-GBV organizations “struggled to remain operational”, which “reflects the lack of resources and funding dedicated to addressing GBV that existed even prior to the pandemic” (p. 7). They also found that women with disabilities, who already faced higher rates

of GBV prior to COVID-19, became even more vulnerable during the pandemic, due to the lack of accessible communications and the reduction of transportation services. Human Rights Watch (2021) reported that the effects of the pandemic were disproportionately felt by marginalized people, including Black lesbians, transgender people, sex workers, people with disabilities, and immigrants, many of whom were overlooked by COVID-19 aid programs.

South Africa's systems of patriarchy and white supremacy, which are legacies of the colonial period and which thrived during apartheid, are still very much in place in today's South Africa (Britton, 2006). These oppressive structures have resulted in the normalization of GBV through the "traditional views of masculinity within a hierarchical, competitive and physical culture" (De Lange, Mitchell, and Bhana, 2012, p. 501). Despite some changes in rhetoric and legislation since the end of apartheid, many South African women are still treated as the property of their husbands and face a cultural expectation to obey them. This creates unequal power relationships in cis-hetero relationships and extremely high rates of intimate partner violence. Marital rape was not legally recognized until 1993; before that point, husbands could rape their wives without any possible recourse. This and other legislative changes since the end of apartheid, along with feminist organizing and gradually modernizing social norms, have led to some progress in increasing legal protections and opportunities for women (Britton, 2006). Many men are not happy about the changing status quo and the shifting of gender roles in a society that has always placed them at the top. Men remain unwilling to sacrifice their superior position to allow women to achieve equality, which in turn contributes to the maintenance of their position and the further subjugation of women through violence. (Fakunmoju & Rasool, 2018).

The persistence of gender inequality in South African society and the continuation of traditional gender roles ensure that women are frequently financially dependent on men; thus,

women tolerate abuse by partners in exchange for economic survival (De Lange, Mitchell, and Bhana, 2012; Enaifoghe et al., 2021). While South African unemployment rates are high across both genders (30.1 percent in 2020), the rate is higher for women than for men (32.4 percent versus 28.3 percent). However, the unemployment rate for Black women is 36.5 percent and only 8.2 percent for white women (Statistics South Africa, 2021). This shocking difference means that Black women are less likely to be financially secure and thus more likely to stay with a toxic and abusive partner. There is also a higher chance of them living in communities where GBV is common, due to a variety of factors, such as poverty and substance abuse. When women in heterosexual relationships earn more than their male partners, their partners often feel insecure and resentful, believing that they, as men, should be the breadwinner and control the family's finances. Many men see this changing dynamic within relationships as a threat to their masculinity and power (De Lange, Mitchell, and Bhana, 2021). It is impossible to examine the issue of GBV in South Africa without acknowledging and understanding these socioeconomic realities and the relationship between poverty and violence.

The public discourse around GBV in post-apartheid South Africa has been insufficient and has contributed to the perpetuation of the same violence. The emphasis has been on the empowerment of women, rather than on the behaviour of men, but in ways that are far from transformational. According to Gqola (2007), this rhetoric “rests on the assumption that *some* [emphasis in original] women have access to wealth, positions in government and corporate office is enough gender-progressive work for our society”, while persistent sexism, along with racism, classism, xenophobia, and homophobia, continue to keep the rest from achieving empowerment (p. 115). Women are expected to seek empowerment within the existing patriarchal systems, which, while accepting the increased status of some women in the

workplace, still requires those women to perform traditional femininity in the home and in their private lives. Thus, South African society, including many women who contribute to upholding the patriarchal status quo, turns a blind eye to the sexual and physical violence women continue to face, leaving “the ‘cult of femininity’ intact and violent masculinities untouched.” (p. 117).

Gender roles in families and the ways in which children are raised continue to play an important part. “Boys are socialized to be tough and to engage in aggressive and high-risk behaviours, while females are socialized to be sensitive to the needs and feelings of others” (Fakunmoju & Rasool, 2018, p. 3). Because of this rhetoric, many boys not only feel that they *can* get away with aggressive behaviours towards girls, but that they *should* engage in those behaviours in order to fit in. It also leads to girls thinking that GBV is inevitable and something that they should put up with. The prevalence of GBV is commonly attributed to Zulu culture and belief systems; Zulu men are expected to be aggressive and dominant, and demand respect from women. In an interview with Bhana, de Lange, and Mitchell (2009), a male teacher explained the conflict between Zulu culture and a legal system that prioritizes (or claims to prioritize) gender equality:

So they [women] think they’re oppressed and they have this constitution which says “50–50”, you see. So this 50–50 thing is the main cause of this violence, of this gender violence... Should I be compelled to go to the kitchen, to cook, to take care of children and all those kinds of stuff? You see, so it’s not that easy, to us as Zulu people ... there is that patriarchal thing in our community whereby we, we really cannot accept that women are being raised to now...to the standard, and to the level, you see, this equality. So our culture doesn’t allow that. But the constitution says so. So now it’s a clash between the constitution and cultures (p. 49).

These traditional gender roles encourage women to stay silent if they experience rape or abuse; survivors frequently fear even more abuse as a punishment for reporting the initial incident (Hassim, 2009). Cultural practices dictate that women are the property of their husband and should submit sexually to them; their refusal to do so is often seen as a justification for

violence (Fakunmoju & Rasool, 2018). Many women, especially customary wives, who are abused or raped by their husbands choose not to report to the police out of loyalty to (and economic dependence on) the husband and his family. Reporting abuse to the police and then later retracting it after pressure from family members is not uncommon among South African wives; “withdrawing a charge at a later point can be seen as a way of maintaining family relations after the threat to their authority has been experienced” (Moore, 2019, p. 685).

Women who would otherwise be willing to report their abuse to someone might not want to interact with the police, who, during apartheid, were the face of brutality – and sometimes rape – and who are still widely mistrusted (Britton, 2020). In place of formal interventions, family meetings are often used as a mechanism for dispute resolution. From a wife’s perspective, this strategy has several benefits: she can shame her husband in front of both families, she can enlist the help of family members to alter her husband’s behaviour, she maintains loyalty to her husband and in-laws by not taking it to the authorities, and she is able to continue to survive economically (which may not be possible if she left her husband or if he went to jail). Family members usually encourage the wife to stay and may even defend the husband’s actions, which can take an additional mental toll on someone who has already been abused. Even if the husband’s family admonishes him in the context of a family meeting, he is still likely to assault his wife again in the future. Given that reporting leads to tension within the family and the potential loss of financial security, along with women’s awareness of the unlikelihood that police will arrest their abuser, it is unsurprising that many women who experience abuse at the hands of their husbands choose not to report (Moore, 2019).

The behaviour of men and boys and their likeliness to perform acts of GBV can be attributed at least in part to the high rates of exposure to GBV among adolescents, usually at

home, and the normalized attitudes about it. Patriarchal norms around the superiority of men and the acceptability of men using physical and sexual violence to ensure obedience from women allow men to get away with these acts. These norms signals to boys that they can do the same, especially when they see men abusing women from a young age (Fakunmoju & Rasool, 2018). Even as adolescents, many girls experience gender-based violence and many boys perpetrate it. One in four adolescents reports having experienced GBV before the age of 18 (with 39 percent of girls experiencing IPV) and over 10 percent of boys admitting to having forced a partner to have sex (Fakunmoju & Rasool, 2018). In 2004, police also estimated that 42 percent of rape survivors were under the age of twelve (Britton, 2006). Schools are not safe havens for girls; in fact, over 30 percent of girls in southern Africa experience rape at or around school. “Gender-based violence is linked to bullying, corporal punishment, verbal abuse and sexual violence in schools, and it is often the authoritarian school that allows gender-based violence to flourish. Women teachers and girls are vulnerable to aggressive sexual advances from male learners and male educators within the school and also males outside the school (e.g. gangs and taxi drivers)” (De Lange, Mitchell, and Bhana, 2012, p. 502).

Police advise women to yield instead of stopping at red lights when driving in unsafe areas at night and to avoid travelling alone. Those without cars, typically poorer women, are told to avoid being out alone at night altogether, to avoid sitting in the front seat of a taxi, and to wear conservative clothing (Gqola, 2007). This shifting of responsibility from the perpetrator to the potential victim demonstrates the popular view in South Africa that women should modify their behaviour to avoid being attacked. According to Gqola (2007), “the message is clear: women, modify your behaviour, and adjust all aspects of your life in the unlikely chance that you might avoid falling prey to serial killers or other gender based violence” (p. 121). In a study of women

university students' experiences with GBV, Gordon and Collins (2013) find that participants see rape as “inevitable” and that they shape their behaviour around the fear of being raped. As one interviewee put it, “You never know what may happen. Sometimes you hear cases of rape. So and so has been raped or so and so has been robbed of something,... you then start to wonder what may happen to you in the days to come or the few months to come” (p. 95). They follow unwritten rules to minimize their chance of being raped, including not wearing short skirts, not flirting with men, maintaining an unapproachable demeanour, not drinking with men, and not walking alone at night. Again, this places the responsibility to worry about and prevent violence on the shoulders of the potential victims rather than on those perpetrating such acts. Despite the widespread nature of the fear of GBV, and specifically rape, among these university students, there is also a social expectation that survivors do not speak up. Another participant admitted, “I’ve never seen anyone who said ‘it has happened to me’, not that they would. People don’t say things” (p. 101).

Society resigning itself to the fact that men will continue to assault women not only exonerates abusers but also allows the state to abdicate its responsibility to protect its people. This type of victim-blaming contributes to the persistence of rape myths that minimize the seriousness of GBV. One such myth is the idea that “being raped is worse than being dead”. Ronel Koekemoer, counselling coordinator for Rape Crisis Cape Town Trust, explains that many survivors feel guilt and shame for “allowing” themselves to be raped, when the only other alternative is being murdered (Engelbrecht, 2022). The shame and lack of validation that survivors face when they tell others they have been raped or attacked, along with society’s tendency to blame survivors for their own experiences of GBV, makes them less likely to report

to the police. This, in turn, perpetuates the culture of silence around GBV, forcing survivors to bear the burden themselves (Gordon & Collins, 2013).

Even as subsequent South African governments have spoken out against GBV and gender inequality, leaders have not always led by example. In 2006, Jacob Zuma, the former Deputy President of South Africa, went on trial for the rape of his friend's daughter. Zuma's trial "held up a mirror to South African society, bringing debates about the intersections between private relationships and gender power into view in the public sphere" (Hassim, 2009, p. 58). The alleged victim, a feminist and grassroots activist, was dismissed as an unreliable witness, while Zuma, who claimed that her wearing of a short skirt and immodest way of sitting meant that she wanted sex, was found not guilty. The public debates surrounding Zuma's trial are indicative of broader views on the place of women in society. Outside the courtroom, people held up banners with slogans like "Burn the bitch" and "Zuma for President" and verbally (and sometimes physically) harassed the victim as she passed by (Hassim, 2009). This victim-blaming rhetoric, along with the fact that Zuma was acquitted, demonstrates the way that the experiences of survivors are discredited and the way that survivors go through further traumatization during the process of seeking justice. Zuma, who was supported and cheered on during the case, went on to become the country's President not long thereafter and was in power for almost a decade. Meanwhile, his victim was attacked in the media and subject to public vitriol, simply for reporting the crime. These two vastly different responses to perpetrator and survivor reflect the permissiveness that society has for GBV, especially when carried out by men in positions of power, and the disdain society has for women who report their assaults.

The social conditions of white supremacy and patriarchy that characterized the colonial and apartheid periods are still very much in place in today's South Africa. Despite a widespread

recognition that apartheid was bad, racism remains a central feature of life for Black South Africans and gender-based violence remains an ever-present threat to the country's women and trans people. Moffett (2006) describes it aptly: "in post-apartheid, democratic South Africa, sexual violence has become a socially endorsed punitive project for maintaining patriarchal order" (p. 129).

Policing in South Africa

At the end of apartheid, there was a push within the new government to demilitarize the police service, which had been a highly militarized body throughout the apartheid era (Lamb, 2018). The South African Police (SAP) was rebranded as the South African Police Service (SAPS) and it was restructured, supposedly in order to focus on serving the population and upholding human rights rather than on punitive enforcement of an unequal social order (Dixon, 2015). The professed goal of this new organization was to serve the people of South Africa in a fair and unbiased way, unlike its apartheid-era predecessor (Ivković et al., 2020). However, despite the attempt to restructure and redefine the role of police in South Africa's new democracy, the SAPS continued to reflect the legacy of apartheid, during which time extensive use of force, especially against Black people, was considered the norm (Dixon, 2015; Zondi & Ukpere, 2014). Lamb (2018) argues that the SAPS remained an extremely hierarchical and militarized organization and that it became further militarized towards the end of the 1990s and into the 2000s, as crime rates increased, and the SAPS adopted a "war on crime" approach to policing. Since 2010, there has been an even more marked remilitarization within the SAPS, with the reinstatement of military ranks and insignia, and a return to paramilitary and aggressive

policing tactics, along with a tougher and more punitive rhetoric that has justified the use of force by officers (Lamb, 2018; McMichael, 2016).

The increase in police violence and the remilitarization of the SAPS has accompanied a rise in civil unrest. Since about 2004, there have been widespread protests, particularly in rural townships, over inadequate service delivery and the corruption of local government officials. This movement, which has been referred to as a “rebellion of the poor”, reflects a pervasive sense of discontent among poor and largely Black South Africans, who were promised a better life with the country’s transition from apartheid to democracy, but who continue to struggle in a society still characterized by extreme income inequality (Alexander, 2010). Many people watch politicians getting richer, while they deal with deplorable housing conditions, lack of access to water and electricity, and staggering rates of unemployment (McMichael, 2016). Alexander (2010), explains the reasons for the discontent that has resulted in these widespread protests:

The protests reflect disappointment with the fruits of democracy. While some people have gained, the majority are still poor. Levels of unemployment are greater than in 1994, and income inequality remains vast. People can vote, but all too often elected representatives are self-seeking and real improvements are few. Many problems can be traced back to post-apartheid government policies that can be described as ‘neoliberal’. Privatisation of local services opened up new opportunities for private accumulation by councillors and their cronies. Inadequate investment in public goods has produced a shortage of people with the skills necessary to administer local government and maintain municipal services (especially outside the metropolitan areas). There has also been underfunding in key areas, particularly housing. Critically, neoliberalism has sustained massive inequality, which, linked in particular to policies associated with black economic empowerment, has added to feelings of injustice (p. 37).

According to Bond (2006), “society suffered the replacement of racial apartheid with what can accurately be considered class apartheid: systemic underdevelopment and segregation of the oppressed majority, through structured economic, political, environmental, legal, medical, and cultural practices largely organised or codified by Pretoria politicians and bureaucrats” (p. 37).

However, given the fact that this class divide largely impacts the same population that was

subjugated during apartheid, Black people, I would suggest that the “class apartheid” that Bond references cannot be adequately understood without using a racial lens.

In 2012, in response to a mining strike in Marikana over wages and working conditions, SAPS officers killed 34 protestors and injured many more (Adelman, 2015). It was found that at least half of the deaths could be directly attributed to the violent tactics employed by the police, which could have been avoided (Lamb, 2018). This event, known as the Marikana Massacre, is often seen as the culmination of the surge both in protests and in the aggressive police reaction to them, and as a wake-up call about the violence and brutality of the SAPS (Adelman, 2015; Dixon, 2015). According to Bond and Mottiar (2013), “when a ruling party in any African country sinks to the depths of allowing its police force to serve white-dominated multinational capital by killing dozens of black workers so as to end a brief strike, it represents an inflection point” (p. 292).

Police have responded to other protests with increased militancy and violence as well; many protestors have been met with police brutality and, in far too many cases, murder (Mkhize, 2015). The police response to protests, which has involved the use of rubber bullets, teargas, arrests, beatings, and shootings, represents not only the SAPS’ “tough on crime” approach, but is also part of a broader state effort to reinforce an unjust societal structure that oppresses certain groups, including Black people, immigrants, and the poor (McMichael, 2016). The brutality employed by SAPS officers when civilians dare protest their governments has resulted in a lack of trust of the SAPS and of the African National Congress (ANC) government. In 2012, then-spokesperson for the Unemployment People’s Movement in Grahamstown, Ayanda Kota, wrote:

When the elite’s power is threatened they will respond with more and more violence. War has been declared on the poor and on anyone organising outside of the control of the ANC. We are our own liberators. We must organise and continue to build outside the

ANC. We must face the realities of the situation that we confront clearly and courageously. Many more of us will be jailed and killed in the years to come.

From the perspective of the South African state, “violence is an important discursive tool that may be used for governance and control” (Paret, 2015, p. 121). In many cases, politicians and government officials have endorsed the use of force and violence by SAPS officers, especially under the Mbeki and Zuma governments, who embraced and encouraged the SAPS’ move towards a paramilitary force (McMichael, 2016; Zondi & Ukpere, 2014). In a State of the Nation Address, President Zuma (2014), defended the police’s violent reaction to protests:

when protests threaten lives and property and destroy valuable infrastructure intended to serve the community, they undermine the very democracy that upholds the right to protest. The dominant narrative in the case of the protests in South Africa has been to attribute them to alleged failures of government. However the protests are not simply the result of “failures” of government but also of the success in delivering basic services. When 95% of households have access to water, the 5% who still need to be provided for, feel they cannot wait a moment longer. Success is also the breeding ground of rising expectations. Let me also add Honourable Members, that any loss of life at the hands of the police in the course of dealing with the protests cannot be overlooked or condoned. Loss of life is not a small matter. We need to know what happened, why it happened. Any wrongdoing must be dealt with and corrective action must be taken. Police must act within the ambit of the law at all times. Having said this, we should also as a society be concerned that between 2005 and 2013, close to 800 police officers were killed. The police are protectors and are the buffer between a democratic society based on the rule of law, and anarchy. As we hold the police to account, we should be careful not to end up delegitimising them and glorify anarchy in our society.

Zuma’s suggestion that those who do not have access to water are simply impatient and should be glad that the government has provided water to most of the population, but not to them, belittles the legitimate complaints that people have around inadequate government service delivery and enables the government to avoid responsibility for their inaction. Furthermore, his shifting of the focus to the almost 800 police officers killed between 2005 and 2013 demonstrates the higher value the government places on the lives of police than on other members of society, especially if those people happen to be poor. Additionally, many more

civilians are killed by police than the inverse; over 400 people are killed by the SAPS each year, amounting to a police killing approximately every 20 hours (Clarke, 2021).

In addition to the brutality employed by officers, police legitimacy in South Africa is undermined by the widely held public perception that police are corrupt and ineffective at preventing and responding to crime. In general, there is a large degree of mistrust of the police among the South African population, particularly among vulnerable groups, such as undocumented immigrants, who are more likely to have negative encounters with officers (Bradford et al., 2014). As well as being known for their discriminatory practices when deciding which “criminals” to pursue and which cases to seriously investigate, many in South Africa see SAPS officers as likely to employ objectionable tactics, including soliciting and accepting bribes, using excessive force, and arresting people without justification. In a 2018 survey, 25 percent of respondents said that they had requested help from police over the past year; of that number, 12 percent said they gave the officer a bribe or a gift in order to get help. 27 percent of respondents said that they had interacted with a police officer at a checkpoint over the past year; of that number, 26 percent claimed to have given the officer a bribe or a gift to avoid any issues (Ivković et al., 2020).

South African police are inextricably linked to the issue of gender-based violence in the country; they are responsible for responding to and pursuing justice in cases of violence, and they themselves are also perpetrators of violence far too often. According to the SAPS’ own statistics, there were 42 289 cases of reported rape and 7749 cases of reported sexual assault in the 2019-2020 year (Gouws, 2021). However, GBV is severely underreported in South Africa, and the real numbers are likely much higher. Survivors are frequently hesitant to report their cases to police because they expect the process to be traumatizing and they do not have high

hopes that it will result in justice (Oparinde & Matteau Matsha, 2021). Many also fear that police officers will not believe them or will blame them for their own rapes or assaults (Basdeo, 2018). Furthermore, police are known for even refusing to help survivors who approach them looking for assistance in accessing services, such as finding a domestic violence shelter (Ivković et al., 2020). These factors work together to deter survivors from reporting abuse to the police.

When GBV is reported to police, they have high levels of discretion in deciding whether to pursue complaints, which can lead to known attackers not being arrested and increased aversion to police and reporting by victims. When police leaders and detectives are committed to a case, they can choose to put significant resources towards the investigation and pursue it aggressively. Unfortunately, that commitment is often absent, and police officers have other higher priorities (Britton, 2020). This is evidenced by the fact that only about 14 percent of reported rape cases go to trial, and of those cases, only 7 percent result in conviction (Gouws, 2021). In a letter to the nation written in November 2021, President Ramaphosa noted that the SAPS was “making progress in reducing the significant backlogs in DNA analysis” of GBV cases (Ramaphosa, 2021). However, this progress may be questionable; as of December 31, 2021, the backlog of sexual offence cases represented 81.4 percent of all sexual offence cases in South Africa (Kunene, 2022). Most reported cases end up being closed by the police, who tend to have a narrow view of what constitutes an act of GBV and are often quick to dismiss a complaint as not fitting that definition or to encourage survivors to withdraw their complaints. “Police officials, who are not properly trained, overburdened and working under pressure, are more prone to fall back on their personal store of knowledge and stereotypes to interpret a case” (Basdeo, 2018, p. 119). Many police officers choose not to pursue cases of IPV, because they consider it to be “a private, domestic matter” and because they see women’s sexuality as

shameful (Oparinde & Matteau Matsha, 2021, p. 9). These perceptions demonstrate the extreme extent to which policing in South Africa is built on patriarchy and misogyny.

When cases do make it past the initial investigation, they may be dismissed by other criminal justice officials at later stages or withdrawn by the complainant due to frustration with the process, which can take a long time (Basdeo, 2018). Survivors also frequently face revictimization in court proceedings that do not show respect and sensitivity to their experiences (Mogale, Kovacs Burns, and Richter, 2012). For example, a young woman who was gang-raped in her home in Tembisa in 2005, known in the media by the pseudonym “Buyisiwe”, had her case postponed over 23 times, due to officials violating procedures, losing documents, and making other administrative errors (Lake, 2018, p. 103). When she did finally testify, four years after the attack, Buyisiwe was forced to recount details of her rapes and subsequent health consequences, look at exhibit pictures of the crime scene, and endure an intense cross-examination (Tau, 2009). With court processes that cause so much emotional pain and trauma, it is understandable that many survivors choose not to pursue justice.

While the SAPS has pledged to address instances of GBV, officers have “poor approaches and attitudes towards rape victims”, which is reinforced by a lack of commitment by police leaders and managers to “enforce certain norms and standards” (Basdeo, 2018, p. 117). Even when police do pursue GBV cases, they face other logistical challenges, including heavy caseloads and lack of training in taking statements and dealing with sexual offences. Basdeo (2018) suggests that these impediments force police to choose between cases to pursue, often focusing on the easiest ones. Officers’ belief in sexist stereotypes and rape myths can inform the ways in which they deal with sexual assault cases. These myths include the beliefs that women are likely to lie about being assaulted, that some women deserve to be raped because of their

clothing or behaviour, that “no” can sometimes mean “yes”, and that some forms of forced sex should not be seen as rape. Even women police officers tend to hold patriarchal views and subscribe to ideas of victim-blaming and slut-shaming (Ivković et al., 2020).

In addition to mishandling and not taking seriously GBV cases, police also perpetrate acts of GBV themselves. In 2011, 90 SAPS officers were convicted of various offences, encompassing “attempted murder, death as a result of police custody, improper performance of duties, murder, rape, assault with grievous bodily harm, common assault, corruption, abuse of informers’ fees, reckless driving, failure to dispatch a police vehicle to a scene of domestic violence, and failure to open a docket where a criminal charge has been laid” (Hesselink & Häefele, 2015, p. 319). As of 2013, 1448 SAPS officers had convictions, some for murder, rape, and assault (Hesselink & Häefele, 2015). According to the Independent Police Investigative Directorate (IPID), over 42 000 formal complaints about the police were lodged between 2012 and 2019 (Harrisberg, 2020). In the 2017-2018 year, these complaints included 3661 allegations of assault, 105 allegations of rape, and 217 allegations of torture by police (Ivković et al., 2020). In a study of women in custody in South Africa, Hesselink and Häefele (2015) found that, of the 56 women they interviewed, 26 experienced physical assault by an officer, seven were solicited for bribes, one was raped, and another experienced “sexual touching”. One interviewee claimed that an officer put a tight belt around her neck, while another said she was forced to sit in a police car for two days as the officer drove round, being denied food and access to a bathroom. Most participants had also witnessed police brutality while in custody, including seeing police assault and rape other offenders. One participant witnessed officers beat her boyfriend to death, and three others saw the murders of fellow inmates. They also experienced and witnessed verbal abuse, threats, and refusal to allow inmates access to medical services, legal services, and food.

Unsurprisingly, given who their attackers were, only five of the 56 participants reported incidences of abuse to the police. Unfortunately, there is a very low level of optimism that police officers who assault, brutalize, rape, or even murder people will be held accountable in any meaningful way (Zondi & Ukpere, 2014).

The criminalization of sex work in South Africa makes conditions extremely unsafe for sex workers, who are often Black, trans, immigrants, or members of other vulnerable communities. Sex workers are deterred from pursuing justice when they face violence and abuse from clients, and from accessing health services, like treatment for HIV. The knowledge that sex workers are unlikely to report crimes to police in order to protect themselves emboldens perpetrators of GBV, who feel more free to rob, assault, and rape sex workers, knowing they will most likely get away with it. When they do report GBV to police, sex workers are often met with disbelief, unwillingness to help, and even laughter (Human Rights Watch, 2019). As many as 70 percent of sex workers in South Africa have also experienced physical or sexual assault at the hands of a police officer (Hesselink & Häefele). In addition to harassing and assaulting sex workers, officers frequently use unlawful methods during arrests, including not clearly explaining the reason for the arrest, leaving them in jail for days without explanation, overusing pepper spray and other aggressive tactics, making them sign documents admitting their guilt, and extorting them for bribes or sex (Human Rights Watch, 2019). Police abuse of sex workers worsened during the COVID-19 lockdown, when the implementation of a curfew enabled police to more easily identify and arrest sex workers working in the streets (Human Rights Watch, 2021).

Efforts to combat GBV

Women's organizations have played a major role in lobbying government for changes in legislation to address gender-based violence (Fakunmoju & Rasool, 2018). Feminism was not considered a legitimate discourse in South Africa until the 1990s and therefore the fight for women's equality was not institutionalized until then (Hassim, 2009). The ANC Women's League (ANCWL) was the principal actor in fighting for women's rights before apartheid ended, and its work continued after the regime change. However, the ANCWL and other organizations faced a significant shift with the transition to democracy, with most of their women leaders achieving positions in government. As most funding for anti-GBV organizations now comes from government, organizations have had to adapt to working with rather than against the government; they had to learn to collaborate with the government while also trying to hold them to account. They also dealt with bureaucratic and political challenges, including difficulty getting access to MPs and government officials, time constraints, and funding, which have impeded their efforts. Activists also found that MPs who had been allies in the fight against apartheid, especially women, faced a shift in priorities after getting into office and were less focused on the goal of gender equality (Britton, 2006). The ANCWL is constrained by party loyalty, with its members are typically being recruited on political grounds; members are thus often reluctant "to risk an alliance with men to defend gender issues" (Gouws, 2016, p. 407). Furthermore, the work of anti-GBV organizations that push for implementation of legislative changes is somewhat hindered by their dependence on the government agenda (Gouws, 2016). Before the end of apartheid, it was also easier to secure funding from international organizations, who often provided money with few stipulations; after apartheid, there was less money flowing in due to the perception that it was not needed as badly as during apartheid (Britton, 2006).

The mandate of women's organizations also shifted with the end of the apartheid regime. Immediately after apartheid, organizations worked hard on getting women elected and getting progressive legislation passed, and then after about 1999, the focus moved to getting policies implemented. Even though they are generally working towards the same goals, a sense of competition has emerged between anti-GBV organizations, thanks in no small part to the necessity of competing for money (Britton, 2006). According to Boonzaier and Gordon (2015), there is also a gap in organizational responses to GBV, which tend to centre on "victim-empowerment programmes, women's shelters, trauma clinics, support groups and counselling for survivors with less systemic focus on batterer intervention" (p. 1097). In other words, there is support for victims of GBV, but there is not enough being done to prevent the violence from happening in the first place.

The South African government has made some notable strides to tackle gender-based violence and gender inequality more broadly. South Africa's Constitution, which went into force in 1996, "affirms women's dignity and rights to full humanity" (Gqola, 2007, p. 114). However, Gqola (2007) suggests that the Constitution is aspirational and paints a very different picture than the reality of post-apartheid South Africa, where there are still significant systemic barriers for women and other gender-oppressed people. There are quotas for the inclusion of women in parliament, which ensures that women are represented in politics (Fakunmoju & Rasool, 2018). The African National Congress (ANC), the party at the forefront of pushing for the end of apartheid and is the only party to have formed government since 1994, has committed to equal representation between men and women within their party, which has led to relatively high numbers of women in parliament (Selebogo & Ojakorotu, 2013). Britton criticizes the "state feminism" approach that attempts to tackle gender-related problems mainly through the political

advancement of women, as concentrating too heavily on “carceral approaches to feminism” that are reactive rather than preventative and focus on individual perpetrators rather addressing the broader social and economic inequalities (Britton, 2020, p. 150).

In 1998, the government passed *Domestic Violence Act 116*, which was initially celebrated by women’s rights activists and is seen as being extremely comprehensive and progressive. Mogale, Kovacs Burns, and Richter (2012) describe the act:

It (a) recognizes a wide range of [violence against women (VAW)], (b) acknowledges that VAW can occur in a variety of familial and domestic relationships, (c) gives magistrates power to serve abusers with court orders and extend this to even the workplace of the victims, (d) compels the perpetrator to maintain the victim’s finances while not staying in the same house or accommodation, (e) disarms the respondent who is the perpetrator and offers police protection to the victim, (f) outlines the obligatory duties of the police, and (g) lays down penalties for failure to execute such duties (p. 581-582).

Despite this legislation being quite well received by activist groups and the public, the government did not provide an adequate budget for the implementation of the *Domestic Violence Act*, nor did they invest in consistent training of police and criminal justice officials. Moreover, the act has been challenging to put into practice in LGBTQIA+ communities (Selebogo & Ojakorotu, 2013).

In 2007, the government passed another significant piece of legislation addressing the issue of gender-based violence, the *Criminal Law (Sexual Offenses and Related Matters) Amendment Act No 32*.

The aim of this act is to handle all legal aspects of or related sexual offenses and crimes under one statute. The act (a) regulates all procedures, defenses, and evidentiary rules in prosecution and adjudication of all sexual offenses; (b) criminalizes any form of sexual penetration, sexual violation without consent, irrespective of the gender of the victim; (c) criminalizes exposure or display of child pornography as well as situations in which an individual is forced or compelled to watch or witness certain sexual conduct; (d) criminalizes sexual exploitation of children and mentally disabled persons; (e) provides a demarcation between the age of consent for consensual sexual acts between children aged 12 to 16 years; (f) provides special provisions in relation to the prosecution and adjudication of consensual sexual acts involving children up to 16 years of age; (g)

criminalizes any attempt, conspiracy, or incitement to commit a sexual offense; (h) provides the court with extra-territorial jurisdictions when hearing matters related to sexual offenses; (i) abolishes secondary traumatization of victims; (j) compels the perpetrator to be tested for HIV/AIDS status; (k) gives the victim the right to receive Postexposure Prophylaxis (PEP) treatment for HIV/AIDS; and (l) urges the establishment of one national register for sex offenders (Mogale, Kovacs Burns, and Richter, 2012, p. 582).

Basdeo (2018) suggests that, while the 2007 reforms “have a significant impact on *what* the police must investigate, these amendments do not holistically address the more challenging issue of *how* [emphasis in original] the police should manage sexual offences (particularly rape cases) reported to them.” (p. 113) Other legislation that governs the way the SAPS handles GBV cases includes the *Firearms Control Act (Act No. 60, 2000)*, the *National Policy Guidelines on Victim Empowerment*, the *National Instructions on Domestic Violence*, the *National Policy Framework on the Management of Sexual Offences*, the *National Instructions on Sexual Offences*, and the *National Directives and Instructions on Conducting a Forensic Examination on Survivors of Sexual Offences in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act (no. 32, 2007)* (Basdeo, 2018). In reality, the passage of these pieces of legislation has done little to curb the rampancy of GBV. Legislation around GBV has been done within a criminal justice framework, enacting punitive measures which seem not to have made any difference when it comes to deterring perpetrators from committing acts of abuse (Boonzaier & Gordon, 2015). Moreover, focusing on punishment ignores the underlying causes of the violence and fails to transform social norms.

In 2009, the Southern African Development Community (SADC), an intergovernmental organization of 15 member states, enacted a *Gender and Development Protocol*, which aims to reduce violence against women and girls by 5 percent each year until it is entirely eliminated. It is a “legally binding agreement compelling SADC Member States to accelerate efforts towards

gender equity” in areas that include political representation, education, health, employment and addressing challenges such as gender-based violence (Selebogo & Ojakorotu, 2013, p. 5179). South Africa signing on to this agreement demonstrates the government’s willingness to declare on the world stage that the country has a problem with GBV and that they are willing to take action to combat it. However, South Africa’s membership in the SADC does not seem to have done much to reduce the occurrence of GBV.

In 2013, the South African Department of Justice (DoJ) developed a model for sexual offences courts and pledged to establish them across the country in order to better deal with cases of rape and sexual assault. Sexual offences courts deal specifically with sexual offences and, as such, are able to better serve survivors. People working in sexual offences courts, including prosecutors, are specially trained and can make better decisions when it comes to GBV cases and be more sensitive to the experiences of survivors. Sexual offences courts tend to process cases faster and result in more convictions of GBV perpetrators, which may also lead to an increase survivors reporting their cases. They also provide waiting areas for survivors, so that they do not have to share a space with their attackers, other witnesses, or members of the public. In May 2018, the DoJ reported that there were 75 sexual offences courts across the country. However, activists have found that not all of them were “fully equipped or functioning properly” (The Shukumisa Coalition, 2018). Furthermore, the legislation and regulations that set the standards for these courts were not passed and implemented until 2020, meaning that the sexual offences courts that were operating prior to that point did not offer consistent nor adequate services (Ellis, 2020). The Shukumisa Coalition (2018), which is comprised of over 75 anti-GBV organizations across South Africa, has called for more sexual offences courts in the country to alleviate the backlog of sexual offences cases and to better support survivors. “Through sexual offences

courts, the court system needs to support victims of crime, while ensuring that criminals are brought to justice. Rape survivors who testify in sexual offences courts must receive support when they testify in order to reduce secondary trauma.”

In September 2020, in reaction to the spike in occurrences of GBV during the COVID-19 lockdown, the government introduced three new pieces of legislation targeting GBV. These bills were debated in Parliament, passed by the National Assembly in September 2021, and signed into law by President Ramaphosa on January 28, 2022 (Mlaba, 2022). The *Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill* expands the scope of the National Register for Sex Offenders (NRSO), increases the amount of time someone must stay on the NRSO, expands the definition of the crime of incest, and introduces sexual intimidation as a new offence. The *Criminal and Related Matters Amendment Bill* establishes new procedures “to reduce secondary victimisation of vulnerable persons in court proceedings” and strengthens bail and minimum sentencing provisions in GBV cases. The *Domestic Violence Amendment Bill* introduces new definitions for relevant terms, including “controlling behaviour” and “coercive behaviour”, and expands other definitions, including “domestic violence”. Furthermore, the bill “introduces online applications for protection orders against acts of domestic violence and imposes obligations on functionaries in the Departments of Health and Social Development to provide certain services to victims of domestic violence” (Ramaphosa signs 3 new crime laws in South Africa, 2022).

For decades, GBV activists have been calling for a National Strategic Plan (NSP) on GBV (Pilane, 2022). A National Council on Gender-Based Violence (NCGBV) was established by the government in 2012 with the responsibility of creating a national strategic plan on GBV. However, they failed to develop such a plan, and the issue seemed to fall off the agenda after the

2014 elections (Basdeo, 2018). In 2014, the Stop Gender Violence Campaign was launched by a coalition of anti-GBV organizations across the country, including MOSAIC and Sonke Gender Justice, with the main goal of calling on the government to launch a NSP on Gender-Based Violence (NSPGBV). They have engaged in consultations with 240 civil society organizations, developed a NSPGBV shadow framework report, and organized marches, petitions, and postcard campaigns (Stop Gender Violence Campaign, 2021).

The government finally launched its National Strategic Plan on Gender-Based Violence and Femicide (NSPGBVF) in March 2020, with the aim of eradicating GBV in South Africa by 2030 (Shoba, 2021). The NSP comprises six pillars. The first pillar, “Accountability, Coordination and Leadership”, focuses on the government’s responsibility to lead the GBV response and the implementation of the NSP, be accountable to the people through clear communication, and provide the necessary technical and financial resources. The second pillar, “Prevention and Rebuilding Social Cohesion”, involves goals related to the strengthening of prevention programs, including ones targeted at children and at members of the LGBTQIA+ community, as well as achieving deeper societal changes, such as shifting gender norms and moving away from toxic masculinity. The third pillar, “Justice, Safety and Protection”, focuses on strengthening the criminal justice system and amending legislation. The fourth pillar, “Response, Care, Support and Healing”, includes some vaguely worded goals around providing survivor-focused care and eliminating “secondary victimisation”. The fifth pillar, “Economic Power”, addresses economic inequality between men and women. The sixth pillar, “Research and Information Management”, focuses on building knowledge and using that knowledge in the fight against GBV (Government of South Africa, 2020, p. 19-20).

Since the launch of the NSP, the government claims to have made progress in tackling GBV through “far-reaching legislative reform, support to survivors through the provision of evidence kits at police stations and psycho-social services, the establishment of a Gender-Based Violence and Femicide (GBVF) [Response] Fund and supporting the network of Thuthuzela and Khuseleka Care Centres.” (Ramaphosa, 2021). The GBVF Response Fund, which was launched in February 2021, allocated R21 billion (equivalent to \$1.43B USD) for the implementation of the NSP. However, it is unclear how exactly the money will be prioritized and whether it will be spent in effective ways, rather than “[finding] its way into the crony capital networks of the state”, as often seems to happen in South Africa (Gouws, 2021). Activists have been critical of the slow rollout of the plan, especially as instances of GBV spiked during COVID-19 lockdowns and given the SAPS’ backlog of cases (Shoba, 2021). A National Council on GBVF, consisting of members from both the government and civil society, was supposed to be established within six months of the plan’s launch to oversee the implementation of the NSP (The time to stamp out gender-based violence is now, 2021). At the time of writing, the National Council has not yet been struck.

Though the government claims to have made GBV a priority in recent years, and they have introduced many pieces of legislation and initiatives, they still use victim-blaming language and perpetuate the myth that GBV could be prevented or reduced if women took more precautions. For example, in 2019, the official Twitter account of the South African Government tweeted “Violence and abuse against women have no place in our society. Govt is calling on women to speak out, and not allow themselves to become victims by keeping quiet. Women who speak out are able to act, effect change and help others” (Oparinde & Matteau Matsha, 2021, p. 6). This type of framing sends the message to survivors that the responsibility of protecting

others from GBV lies with them and that their own choices are to blame for their abuse. This rhetoric does nothing to address the causes of GBV, to hold perpetrators accountable, or to reassure survivors that they are not at fault. Since then, however, the government seems to have somewhat adjusted their rhetoric on GBV, shifting the responsibility onto men. In November 2021, President Ramaphosa wrote:

Because it is men who are the main perpetrators, it should be men taking the lead in speaking out and reporting gender-based violence, in raising awareness, in peer education and in prevention efforts. It should be men in positions of authority in our educational system, whether as school principals, educators or lecturers, who should be making schools and places of higher learning safe spaces for female learners and students, and never, ever abusing their position of authority to demand sexual favours. Men should also be playing a more formative and present role in their families, particularly in raising their sons to exhibit healthy, positive masculinity that is respectful of women and children. (Ramaphosa, 2021)

Despite the government's professed interest in stamping out GBV, their focus seems to be on making changes within the existing criminal justice system, rather than making substantive changes to the system itself. Though the NSP does make reference to addressing systemic inequalities that contribute to GBV, the actions of the government and their continued reliance on police, knowing full well that police officers commonly engage in acts of GBV and get in the way of GBV investigations, are not encouraging.

Normative solutions

This section will outline some normative recommendations that have been put forward by scholars and anti-GBV organizations to tackle the GBV crisis in South Africa. Basdeo (2018) makes several suggestions for the improvement of the SAPS' handling of sexual violence cases. These include better funding of police units, better training of police officers, more women in the police force, the more regular release of statistics to the public, the disaggregation of statistics

(for assaults and murders) by gender, better monitoring of the implementation of the *National Instructions on Sexual Offences*, and a better system of tracking sexual offences cases. Taking these steps does have the potential to achieve an increase in the SAPS' effectiveness at solving GBV cases. However, even if all of these goals were achieved, it would not change the fact that policing is, by nature, oppressive towards marginalized communities, including women, members of the LGBTQIA+ community, immigrants, Black and other racialized people, disabled people, and the poor. Basdeo himself asserts that "contemporary and traditional policing methods are not often effective in extracting adequate information from rape complainants, nor are they able to provide adequate support and protection for traumatized victims" (p. 113). Therefore, policing practices do not adequately respond to the needs of the people they supposedly serve. Providing the SAPS with more money seems unlikely to be successful in fixing that. In fact, given the known corruption of the SAPS and their history of engaging in GBV, increasing police funding could result in more surveillance and mistreatment of vulnerable groups. When it comes to GBV, police are part of the problem and thus cannot be the solution. As Dixon (2015) argues,

Where direct violence has been routinely used by a state agency such as the police irreversible steps must be taken to change not just the professional dispositions of police officers but the structural conditions under which they work; to paraphrase a famous anti-apartheid slogan, there can be no consistently just public order policing in an unjust society. (p. 1144)

While organizations that offer services to help survivors of GBV are necessary and deserve to receive government funding, they do nothing to prevent violence from occurring in the first place. A greater focus needs to be put on prevention, which requires engaging boys and men, who are the most frequent perpetrators of GBV. Thandiwe McCloy, communications manager of People Opposing Women Abuse (POWA), suggests that "it is vital to educate young children about gender equality so that they know from an early age that boys and girls are equals.

More investment in programmes targeted at men is also important” (Nyoka, 2022).

Organizations that engage men in anti-GBV efforts, however, have reported difficulty getting men interested, due in no small part to the societal norms that dictate that men should not talk about their feelings and their “resistance to change that would disrupt the benefits conferred by inequitable gendered power relations.” (Colpitts, 2019, p. 425)

Since most men who commit GBV do so for the first time in their teens, early intervention with boys is extremely important. Colpitts (2019) suggests that “anti-violence efforts should focus on engaging boys from a young age and on deconstructing normative masculinities and gendered power relations” (p. 436). Because of the high rates at which youth have been exposed to GBV, especially intimate partner violence (IPV) at home, Fakunmoju and Rasool (2018) recommend working closely with adolescents, particularly boys, who are more likely to become perpetrators, “to improve their gender attitudes and to mitigate the likelihood of intergenerational transmission of violence” (p. 12). They suggest that schools incorporate anti-patriarchal and anti-GBV ideas into their curricula, and that they hold regular sessions with mental health practitioners and social workers. They also recommend that extracurricular and community activities should also target adolescents, especially those who have witnessed or experienced family violence. De Lange, Mitchell, and Bhana (2012) interviewed women teachers in South Africa, many of whom agreed that teachers participate in regular “gender workshops to assist all teachers in understanding gender-based violence and to contribute towards changing the status quo” (p. 508). Providing teachers with training on GBV and gender equality may reduce instances of assault by teachers against students and other teachers, and would make them more effective at preventing, detecting, and reacting to abuse between students.

There is currently a great deal of competition between anti-violence organizations for funding and other resources. Some view organizations that engage men and boys as more attractive to funders and taking away from money to help survivors. Furthermore, money is more likely to go to large international NGOs and corporations than to small grassroots organizations. Organizations report that the amount of money available for all anti-GBV organizations is insufficient. In an interview, one anti-GBV worker described there being “so little funding for sexual violence work [...] it’s such a tiny pot and now we’re trying to share it even more” (Colpitts, 2019, p. 433). A fairly straightforward solution to this problem is that the government provide more funding to community organizations that are doing work around both prevention of and reaction to GBV. Instead of pledging to put more money into policing and a criminal justice system that has shown incredible incompetency and apathy at solving GBV cases, the government should invest those funds where they would actually be felt. Giving organizations more resources to carry out early intervention programs, engagement work, and awareness campaigns could address the culture of violence that pervades South African society and help reduce the occurrence of GBV. Meanwhile, shelters, clinics, and counsellors that serve survivors of GBV and have consistently been underfunded, could use more money to increase their capacity and help as many people as possible.

In a report, Human Rights Watch (2019) recommended the decriminalization of sex work in South Africa. This would involve engaging in a wide-ranging consultation process and introducing a bill in Parliament “that removes criminal and administrative sanctions against consensual adult sex work and related offences”. In the meantime, they called for the SAPS to immediately stop arresting consenting adults for sex work, end the practice of using possession of condoms as evidence of sex work, commit to ending police discrimination against sex

workers, enforce the prohibition of unjust practices (including police brutality, arbitrary arrests, torture, and coerced confessions and signatures), ensure access to medications for people in detention, work with organizations that support sex workers, hold regular training for police on sex worker rights and non-discrimination, and develop a national framework for policing sex work. They also recommend that the Civilian Secretariat of Police and the Independent Police Investigative Directorate investigate and prosecute SAPS officers who are accused of abuse by sex workers, analyze the SAPS' arrest and detention practices, and review and solicit feedback from sex workers on the SAPS complaint procedure. Decriminalization would result in safer working conditions for sex workers, whose illegal status makes them more vulnerable to perpetrators of violence and more likely to be arrested, harassed, or otherwise abused by police officers. The risk of GBV is even greater for the many sex workers who face intersecting forms of oppression, as most are women, and many are Black, trans, poor, or immigrants (Human Rights Watch, 2019). In addition to reducing incidences of GBV, ending criminalization of sex work could also prevent one-third to half of new cases of HIV among sex workers and clients (Tenga & Wasserman, 2017).

As Gouws (2021) suggests, “[no] law reform or greater carcerality by the state can deal with attitudinal change. No matter how much the women’s activism calls for ‘rapists to rot in jail’, solutions are tied up with distributive justice. The state owes women redistributive justice.” (Gouws, 2021) Britton (2020) agrees that “legislation, programs and policies are essential strategies to address gender-based violence, but they are clearly not sufficient to alter the social structures that normalize and perpetuate violence” (p. 150). The South African government has increased its attention to the issue of GBV, but that does not necessarily mean that meaningful change will follow. Increasing the number of left-leaning parties in parliament or the number of

women in government is not enough. In an analysis of 70 countries over 40 years, it was shown that the mobilization of feminist civil society organizations, and not government, results in progressive policies on GBV. “It is the institutionalization of feminist norms on a national level but also in global civil society that leads to progressive policy change.” (Gouws, 2016, p. 409)

As discussed above, GBV is a manifestation of the patriarchal norms that govern South African society and uphold an unequal system. Therefore, in order to eradicate GBV, we need to tackle the deeper socioeconomic and cultural factors that perpetuate gender inequality. Because GBV is reinforced by relationship dynamics wherein one partner (typically a woman) is financially dependent on the abusive partner (typically a man), concerted efforts by the government must be made to address the gender gap in employment and income. Women and other gender minorities, especially those who are also members of other marginalized groups, face systemic discrimination and lack of economic opportunities, which keeps them in a vulnerable position. Gill (2018) suggests that anti-GBV advocates and organizations in the United States, where Black women and LGBTQIA+ people face higher rates of GBV than non-Black ones, often contribute to the marginalization of Black people by not taking societal barriers into account and by allowing racial biases to interfere with their work. This is linked to other challenges they face, including “fear of criminal justice systems, lack of a financial safety net, religious and culturally imposed barriers, fears of deportation, lack of adequate child care services, lack of low-cost housing options, and skepticism of social service institutions” (p. 560). These social conditions are consistent with the ones in South Africa, where Black people are also marginalized, more likely to be poor, and more likely to be subjected to discrimination and abuse. The South African government must do more to address the persistence of racism and

marginalization of Black people on a systemic level, which makes Black women the targets of GBV at high rates.

GBV is not only a South African problem. Estimates tell us that 35 percent of women globally experience physical or sexual violence (UN Women). We can look to other jurisdictions that have had some success in addressing the issue of GBV. Recognizing that financial dependence and economic stress contribute to the occurrence of GBV, some countries have introduced financial assistance programs for women and abuse survivors. The Colombian and Swedish governments both introduced financial assistance for GBV survivors during the COVID-19 pandemic, which saw a rise in GBV around the world, and Italy introduced a financial program to help GBV survivors leave abusive homes (Rodriguez, 2021). Cash transfer programs have been shown to reduce IPV. In a review of qualitative and quantitative studies, Buller et al. (2018) found that cash transfer programs result in increased economic security and emotional well-being within households, leading to less stress and better mental health, which coincides with a decrease in IPV. In cases where cash transfers are not sufficient in stopping IPV, they may still help empower the survivor and allow them the freedom to leave.

Recent years have seen debates in many countries around the potential benefits of a universal basic income (UBI). The introduction of a UBI, which would involve a certain amount of money provided monthly to all residents of a country, could improve the economic situations of many people, contributing to lower levels of poverty, homelessness, health issues, and other socioeconomic challenges. A UBI could also lead to a reduction in the occurrence of GBV.

According to Cameron and Tedds (2021),

To the extent that risk and prevalence of GBV is a result of economic insecurity, a basic income could render economically disadvantaged women of diverse backgrounds—including low-wage workers, gig workers, sex workers, migrant workers, and mothers and caregivers, —less vulnerable to abuse by improving their material conditions and

offsetting the economic consequences produced at the intersections of identity. Further, a basic income has the potential to reduce situations of financial stress which have been proven to drive IPV (p. 3).

South Africa, where both income inequality and rates of GBV are extremely high, should consider the implementation of a UBI, or at least establish targeted cash transfer programs for survivors or marginalized populations. “[An] unconditional income independent of paid work would enhance women’s economic empowerment and self-reliance in families, households, the workplace and the community, with particular benefit for those facing multiple and intersecting forms of discrimination” (UN Joint SDG Fund, 2021). Providing a better social safety net would alleviate the pressures of poverty for many South Africans, allowing them easier access to food, housing, transportation, and education, and it has the potential to provide survivors with the means to escape abusive relationships instead of feeling forced to stay due to their financial dependency on a violent partner.

The World Health Organization (2021) has found that only 48 percent of countries have health guidelines that address GBV and only 35 percent have policies on mental health interventions for GBV survivors. “More efforts are needed to ensure policies and plans addressing violence against women align with human rights standards for survivor-centered care. This includes respect for privacy and confidentiality so that health care providers do no harm and enhance the safety of survivors.” South Africa’s National Strategic Plan on Gender-Based Violence and Femicide (NSPGBVF) does have healthcare considerations, but more specific commitments and resources are needed, with special attention paid to the vulnerable socioeconomic situations of many survivors and in the context of high rates of HIV. Furthermore, mental health must be taken as seriously as physical health; the government must

recognize the extreme psychological effects borne by survivors and commit to the provision of mental health services.

Rises in GBV during the pandemic have also prompted various countries to adopt other targeted measures to help survivors. The French government launched a program to cover the cost of 20 000 hotel nights for survivors. The Italian government adopted a mobile app that allows users to discreetly ask for help without their partner's knowledge, while in Cambodia, a pilot project was introduced for a 24-hour GBV chatline on WhatsApp for women who work in entertainment and nightlife, a segment of the population that experiences frequent GBV at and around work. France, Spain, Germany, the United Kingdom, and Argentina have introduced the use of code words at pharmacies, allowing survivors to discreetly signal that they need help (Rodriguez, 2021). While quite simple, some of these initiatives could also be implemented in South Africa in order to make progress in dealing with GBV in non-carceral ways. Ultimately, countries around the world have struggled with the reduction of GBV, but the COVID-19 pandemic, despite its horrendous health impacts globally, has served to increase attention and response to the issue.

Conclusion

This paper has explored the relationship between policing and gender-based violence in South Africa, arguing that police approaches to dealing with GBV are not sufficient and that, in fact, police make matters worse by failing to properly investigate cases, deterring survivors from reporting, and committing acts of GBV themselves. Furthermore, I have argued that the government should put less emphasis on the police response to GBV and invest instead in non-carceral solutions. Police do not hold the right attitudes or use the right tactics to effectively

respond to GBV cases; furthermore, officers themselves pose serious threats to survivors and marginalized groups in general. These are not problems that can be easily addressed by increased funding, more training, and higher numbers of women police officers. The policing system itself is too intertwined with patriarchal and oppressive structures that were built and perfected during the colonial and apartheid periods with the intention of preventing equality and justice. Police violence and abuse are not symptoms of a broken system; rather, they are indications that the system is working as intended. Making changes within that system will never be enough; what is truly required, therefore, is a complete reimagination of the role of police in society. When asked in an interview what we miss when we depend on police and prisons to solve the issue of GBV, scholar and abolitionist Erica Meiners said:

We miss everything. We miss that the state, in the form of prisons and policing, is one of the deepest perpetrators of gender violence. We miss that the state's response, prisons and policing, is a false response to gender violence. Decades of data show that police and prisons do not end gender violence, or even act as a deterrent. We also miss the long history of communities, particularly women of color communities, that rejected these state responses, these carceral responses to gender and sexual violence (Davis et al., 2022).

However, police and prison abolition do not seem likely to take place in South Africa in the foreseeable future. In the meantime, the focus must be on transferring the responsibility of caring for survivors and pursuing justice for them away from the police, who have demonstrated that they cannot be trusted with such a responsibility. Moreover, the government should decriminalize sex work and better fund civil society organizations that focus on prevention programs and provide shelter, counselling, legal services, and other supports to survivors.

Above all, the conditions that contribute to gender and racial inequality in society must be addressed in order to make any real progress towards the goal of eliminating GBV in South Africa. The patriarchal ideas that women should be subservient and obedient to men, that women

who experience GBV are responsible for their own attacks, and that men should be able to do what they want to their own partners must be dispelled, through education and awareness. To normalize the ideas of consent, respect, and non-violence, children, especially boys, who are more likely to grow up to commit acts of GBV, must be targeted from a young age. The government must prioritize the reduction of poverty and economic inequality, which contribute to the occurrence of GBV, along with countless other social issues. This could be addressed through the introduction of a universal basic income, a cash transfer program for survivors, or another form of financial aid for vulnerable people.

Furthermore, the government must use an intersectional framework when developing legislation, policies, and programs related to GBV and gender issues more broadly, taking into consideration the differing realities of women, LGBTQIA+ people, Black people, other people of colour, immigrants, poor people, people with disabilities, and people who fall into more than one of these categories. Poverty and unemployment are more likely to affect members of these marginalized communities, meaning that members of those groups are more likely to be in positions of financial precarity and thus economically dependent on an abusive partner. They are also more likely to engage in sex work, which puts them in increased danger of being raped or assaulted, and less likely to trust police and justice systems systematically discriminate against them. People who experience intersecting forms of oppression are more vulnerable to all forms of abuse, including GBV. If a white South African woman worries about being raped or assaulted, a Black woman worries twice as much. A Black, queer, poor, trans woman sex worker almost doesn't stand a chance of remaining safe in a society that devalues and despises so many aspects of her identity.

There is extensive scholarship on gender-based violence in South Africa, including on the causes of GBV, policing, and government responses. However, most of this literature refers only to cis women in discussions of GBV; in reality, others, including trans, non-binary, and genderqueer people, are targeted because of their gender. With the lack of analysis of the experiences of GBV among these groups in most of the literature, this paper was limited in its ability to delve deeply into the relationship between transphobia and GBV in South African society and to do justice to those survivors. Future studies should make efforts to identify trends in the experiences of these gender minorities, as anti-trans discrimination often takes different forms than discrimination against cis women, who, while still not close to equal or safe in South Africa, enjoy certain privileges by virtue of their cis identity. Other potential directions for future research include the safety of sex workers in South Africa and their relationship with the SAPS, social movements and activism in response to police brutality, and possible paths towards police abolition.

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