



FOUNDATION FOR
HUMAN RIGHTS

*"I didn't have the
energy for the
drama and court
cases"*

Our Stories, Our Justice: GBV Research in Masibambisane Communities July 2025

**Foundation for Human Rights
&**

Masibambisane GBVF Community Partner Organisations



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EXECUTIVE SUMMARY

South Africa continues to grapple with alarmingly high rates of gender-based violence and femicide (GBVF), despite having one of the world's most progressive legal and policy frameworks. The Foundation for Human Rights (FHR), through its Masibambisane Gender Justice Programme, works with 22 community-based organisations across the country to address GBVF. This report presents findings from a qualitative study undertaken by FHR in partnership with these organisations to explore how justice is understood and pursued by survivors of GBV in their communities.

The study builds on two earlier quantitative surveys that revealed high prevalence rates of GBVF, underreporting to police, and links between GBVF and structural inequalities. This qualitative follow-up employed a decolonial and intersectional approach, foregrounding survivors' voices and recognising South Africa's plural legal system, which includes both statutory and customary law. Through key informant interviews and focus group discussions across diverse settings—urban, peri-urban, rural, and informal settlements—the study explored how survivors define justice, the obstacles they face, and the systems they turn to for support.

In this study participants conceptualise justice in multiple ways to include legal punishment, emotional healing, safety, economic empowerment, community or traditional resolution, and restorative or transformative justice. Findings show that socio-cultural factors such as patriarchy, financial dependency, family dynamics, and religious beliefs shape both the experience of GBVF and the pursuit of justice. Survivors often prioritise healing and dignity over legal outcomes, particularly when formal systems fail them. LGBTQIA+ individuals face additional stigma and exclusion, highlighting the need for inclusive, intersectional approaches. Survivors face systemic barriers in the criminal justice system, including corruption, discrimination, secondary victimisation, and delays in securing protection or recourse. Survivors pursue justice through the criminal and traditional justice systems, for others however healing is prioritised instead.

The report underscores the importance of survivor-centred, community-led, and context-responsive strategies that broaden the understanding of justice. It calls for a holistic justice model that integrates criminal, psychosocial, socio-economic, and transformative dimensions, while foregrounding survivors' voices and choices. These insights provide a critical foundation for informing policy, practice, and programming that are responsive to the needs and priorities of GBV survivors in South Africa.

INTRODUCTION

South Africa has some of the highest rates of gender-based violence and femicide (GBVF) in the world, earning it the title of “rape capital”. Paradoxically, South Africa also has a rich history of organising against GBVF, as well as a model legal framework for responding to GBVF. In spite of this, GBVF rates remain concerningly high.

In order to contribute to addressing these challenges, the Foundation for Human Rights (FHR) leads the Masibambisane Gender Justice Programme, a national initiative to address gender-based violence and femicide (GBVF) through community-driven strategies. The programme spans all nine provinces of South Africa and works with twenty-two (22) community-based civil society organisations operating in under-resourced, marginalised areas¹. These partner organisations are embedded in urban, semi-urban, rural, and informal settlement contexts, where they engage directly with survivors of GBVF (with some, but not all organisations, explicitly including LGBTQIA+ survivors), their families, and broader community members. The Masibambisane partners facilitate GBVF-Free Zones and local forums that serve as safe spaces for dialogue, support, and advocacy. FHR, together with the Masibambisane partners, has over the years conducted research into gender-based violence and femicide (GBVF) to inform a better response.

Prior to the study reported here, the FHR and its Masibambisane partners conducted two quantitative household surveys across the Masibambisane communities, using survey questionnaires administered by trained fieldworkers to adult women. The first survey found 53% of respondents experienced GBVF (physical, sexual or emotional/verbal) in the previous year, while the second survey - which included questions on economic and psychological violence - recorded a 60% prevalence rate. Both surveys revealed similar geographic patterns, with peri-urban areas showing the highest rates followed by informal settlements and rural areas, while urban areas reported lower but still significant prevalence. In 80% of cases, perpetrators were known to survivors, typically being current or former partners.

The surveys found consistently low police reporting rates and low convictions for the reported cases. While higher education was associated with a higher likelihood of reporting sexual GBVF, employment status showed no significant relation to GBVF exposure. Economic factors were strongly correlated with GBVF risk, with some respondents across all areas unable to meet basic needs - particularly in peri-urban areas where only 26% reported food security. The second survey provided specific breakdowns by GBVF type: economic (50%), psychological (30%), physical (15%) and sexual (5%). These findings demonstrate GBVF's widespread prevalence across South African communities, its frequent underreporting, and its connection to structural inequalities. The surveys provided valuable insights and highlighted the need for a contextual understanding of what justice means for individuals and communities, as well as the motivations behind the ways people pursue or do not pursue justice. This led FHR to follow up with a qualitative decolonial approach informed

¹ See Annex 1 for more details on the Masibambisane Partners

study to explore how Masibambisane communities understand justice for GBVF.

The decolonial approach to this research is important, as South Africa has a complex history of colonialism, apartheid and patriarchy. This has structured the socio-economic landscape of the country which influences vulnerability to GBVF. South Africa is one of the most unequal societies in the world², and wealth continues to be distributed largely along racial and gendered lines, with the majority black population continuing to bear the brunt of poverty and poor service delivery from the government³. Although poverty is a largely black experience regardless of gender, it is black women who suffer the most from the impact of poverty⁴. Since 1994, with the advent of democracy, there have been many gains towards redressing the inherited inequality, violence and injustice from the country's complex history⁵, however, many challenges remain for the black majority who continue to live at the margins⁶ of South Africa's deeply unequal society. Corruption features as a significant hurdle to the country's progress and dominates the headlines regularly, leading to a distrust in public institutions⁷.

The decolonial approach to this research was aimed at disrupting the power imbalances that often occur in research where theories and researchers hold greater power to direct the research than the local communities where the research is conducted. Decolonising broadly involves reversing the harms of colonialism and restoring humanity to previously colonised groups. It includes decolonising political, socio-economic, cultural and epistemic structures. In this study, FHR focused on epistemic decolonisation, that is, making different knowledge practices equal. This is decolonising from a feminist standpoint and can be accomplished when research pays attention to the lived experiences, realities and stories of individuals⁸. The research sought a ground up definition of justice from the Masibambisane communities. FHR facilitated space for the Masibambisane partners to participate in the design of the research instruments and the data generation phase so the research could best fit their interests and contexts. The earlier quantitative research surveys in the Masibambisane project focused on justice through statutory law. The qualitative research was open to the different conceptualisations of justice through the different legal frameworks that participants pursued.

The research answers the following question and sub questions:

² World Bank, *Inequality in Southern Africa* (Washington, DC, 2022), <https://doi.org/10.1596/37283>.

³ Remigius Chidozie Nnadozie, '4. Access to Basic Services in Post-Apartheid South Africa: What Has Changed? Measuring on a Relative Basis', *The African Statistical Journal* 16 (2013): 81–103.

⁴ Kgomotlokoa Thaba-Nkadimene et al., 'The Scourge of Poverty among South African Rural Women : In Defence of Social Justice', *Journal of Gender, Information and Development in Africa* 8 (December 2019): 69–89, <https://doi.org/10.31920/2050-4284/2019/8n3a4>.

⁵ Ingrid Palmay, *Gender, Sexuality and Migration in South Africa: Governing Morality* (Springer, 2017).

⁶ S Moshood, 'Bridging the Divide: Addressing Socio-Economic Inequality in Post-Apartheid South Africa within the Framework of Millennium Development Goals (2000-2015).', *Journal of International Studies* 20, no. 1 (2024): 201–31, <https://doi.org/10.32890/jis2024.20.1.8>.

⁷ Preston Govindasamy, 'Citizens' Perceptions of Trust and Corruption in Government Institutions in South Africa', *Institute for Justice and Reconciliation Policy Brief*, no. 46 (2024): 1–9, https://www.ijr.org.za/home/wp-content/uploads/2024/11/800985_A_IJR-PB-Trust-and-Corruption-02.pdf.

⁸ Dimpho Takane Maponya, 'How Should We Decolonise? A Pragmatist African Feminist Standpoint Proposal' (PhD Thesis, University of Johannesburg, 2023), <https://ujcontent.uj.ac.za/esploro/outputs/doctoral/How-should-we-decolonise-A-pragmatist/9938906107691>.

Research questions

How is justice understood by people directly affected by GBVF in Masibambisane communities?

Research sub-questions

1. What are the different ways people directly affected by GBVF pursue justice?
2. Do they feel they achieved the justice they sought?
3. How do social, cultural, and other factors influence their perceptions of justice?
4. Ideally, what would justice be for them?
5. How do they think that can that be achieved?

A decolonial intersectional Approach to Gender-Based Violence and Femicide

Gender-based violence (GBV) is

“a general term used to capture violence that occurs as a result of the normative role expectations associated with each gender, as well as the unequal power relationships between the genders within the context of a specific society”⁹

This definition places GBV within the context of power and the ways in which unequal access to power makes people vulnerable to GBV. In some cases of GBV, women are killed by an intimate partner or ex-partner, and South Africa has one of the highest rates globally¹⁰.

Femicide: Also known as female homicide, femicide is generally understood to involve intentional murder of women because they are women, but broader definitions include any killing of women or girls. In South Africa, it is defined as the killing of a female person, or someone perceived as a female person, on the basis of gender identity, whether committed within the domestic relationship, interpersonal relationship or by any other person, and whether perpetrated or tolerated by the State or its’ agents. Private intimate femicide is defined as the murder of women by intimate partners, i.e. “a current or former husband or boyfriend, same-sex partner, or a rejected would-be lover”. Intimate femicide is defined as the murder of women by intimate partners, i.e. “a current or former husband or boyfriend, same-sex partner, or a rejected would-be lover”¹¹.

Intersectional Perspectives

Intersectionality, a theory that was first used to understand black American women’s experiences of the world¹², states that black women’s experiences of discrimination intersect - meaning that the gendered experience of being a woman intersects with: the racial experience being black, socioeconomic status, age etc., and that the experience at this intersection is not a simple addition of these different social locations. Instead, the multiple intersections compound to create an experience of being a black woman in the world.

⁹ CSVR, *Gender Based Violence in South Africa - A Brief Review*. (Centre for the Study of Violence and Reconciliation, 2016),

<https://www.csvr.org.za/pdf/Gender%20Based%20Violence%20in%20South%20Africa%20-%20A%20Brief%20Review.pdf>.

¹⁰ Yaseen Bismilla et al., ‘Silent Witnesses: Unveiling the Epidemic of Femicides in North-West Tshwane, South Africa – a Decade of Analysis’, *BMC Public Health* 25, no. 1 (2025): 362, <https://doi.org/10.1186/s12889-024-21059-7>.

¹¹ Government of South Africa, *National Strategic Plan on Gender Based Violence and Femicide (GBVF)*. (Pretoria, 2020), <https://www.justice.gov.za/vg/gbv/nsp-gbv-final-doc-04-05.pdf>.

¹² Kimberlé Crenshaw, ‘K (1991), Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color’, *Stanford Law Review* 43 (1989): 1241; Patricia Hill Collins, *Intersectionality as Critical Social Theory* (Duke University Press, 2019), <https://www.dukeupress.edu/intersectionality-as-critical-social-theory>.

Intersectionality has been used to understand the social location of all people and not black women only, as theorists have argued for an analysis of how intersectionality occurs in each context¹³. While recognising that race, gender, and class are significant factors that influence how people experience the world in different contexts¹⁴, intersectional theory also acknowledges that there are other context-specific factors that influence how people experience the world, are discriminated against or privileged, and which also influence their vulnerability to GBVF. Other factors that may be significant in how people are located and experience the world in different contexts include: sexual orientation, migration status, age, religious beliefs, employment status, etc¹⁵. An intersectional view of GBVF shows that black women are not the only group vulnerable to GBV¹⁶ and, more importantly, that to understand vulnerability requires an analysis of each context.

The value of an intersectional perspective to GBVF is that it provides an understanding of how power functions to create vulnerability in a particular context. This should then influence what interventions are initiated in response. Sexual orientation is one factor that increases the likelihood of experiencing GBV, as in the case of homophobic rape where butch presenting lesbian women, as well as trans women, are targeted with the aim of changing their sexual orientation. Furthermore, as a result of stigma, LGBTQIA+ individuals may not report cases of GBV. GBVF programming however tends to focus on GBVF limited to violence against women (VAW)¹⁷. This means that in contexts where groups that are not women are more vulnerable to GBVF, they will be left out of programming. For example, using an intersectionality informed approach to GBVF, researchers have called for a centring of black trans women in the fight against gender-based violence¹⁸. Black trans women, who are at the intersection of being women, trans, and black, experience gender-based violence as structural and institutional violence. GBVF is a form of structural and institutional violence, however black trans women have a particular experience of it as a result of their location. The intersection of their gender, sexual orientation and race makes them face particular vulnerabilities such as violence from state institutions when attempting to access gender affirming surgery or change the gender marker in their identity documents. However, while research has shown that they have a higher likelihood of being affected by GBVF, programming, research and activism tends to leave black trans women out.

Additionally, from an intersectional perspective, the violence that men experience can be

¹³ Inken Carstensen-Egwuom, 'Connecting Intersectionality and Reflexivity: Methodological Approaches to Social Positionalities', *Erdkunde*, JSTOR, 2014, 265–76.

¹⁴ Nira Yuval-Davis, 'Intersectionality and Feminist Politics', *European Journal of Women's Studies* 13, no. 3 (2006): 193–209, <https://doi.org/10.1177/1350506806065752>.

¹⁵ Daiva Stasiulis et al., 'Migration, Intersectionality and Social Justice (Guest Editors' Introduction)', *Studies in Social Justice* 14, no. 1 (2020): 14, <https://doi.org/10.26522/ssj.v2020i14.2445>.

¹⁶ Karen Graaff, 'The Implications of a Narrow Understanding of Gender-Based Violence', *Feminist Encounters: A Journal of Critical Studies in Culture and Politics* 5, no. 1 (2021): 12, <https://doi.org/10.20897/femenc/9749>.

¹⁷ Karen Graaff, 'The Implications of a Narrow Understanding of Gender-Based Violence', *Feminist Encounters: A Journal of Critical Studies in Culture and Politics* 5, no. 1 (2021): 12, <https://doi.org/10.20897/femenc/9749>.

¹⁸ Siyanda B. Shabalala et al., 'Challenging Ciscentric Feminist Margins: A South African Study on Gender-Based Violence in the Lives of Black Trans Women', *Psychology in Society*, no. 65 (2023): 50–80, https://www.scielo.org/za/scielo.php?pid=S1015-60462023000100005&script=sci_arttext.

considered as GBV¹⁹. In as much as men tend to be the perpetrators of GBV, expectations of masculinity usually influence men's engaging in violence as perpetrators, as well as the vulnerability of those men who end up targets and victims of violence. The recognition of the violence that men experience as GBV is important in order to be effective in the interventions to stop GBV²⁰. This is important when we consider that violence tends to lead to more violence, therefore intervening means that less men experience violence and therefore are less likely to be violent. There are critical lessons from GBVF interventions targeting men which are discussed briefly below.

Including men in responses to GBVF offers both transformative potential and complex challenges. One major advantage lies in the potential for gender-transformative approaches to meaningfully shift men's attitudes and behaviours related to gender and violence²¹. Engaging men through structured interventions that critically examine masculinity and promote gender-equitable norms has been shown to reduce intimate partner violence and increase supportive attitudes towards gender equality²². Additionally, men's involvement can expand the reach and legitimacy of GBVF interventions, especially when men become community allies or advocates who challenge harmful norms within their social networks. This is particularly impactful when engagement is situated within culturally specific and community-rooted strategies, allowing men to reflect on their own experiences of marginalization and make empathetic connections to the realities of GBVF²³.

However, there are also critical risks and limitations to consider when incorporating men into GBVF responses. A central concern is that efforts to include men may inadvertently reinforce patriarchal dynamics, especially when men are positioned as "saviours" or central figures in what should be survivor-led movements²⁴. Campaigns that rely on stereotypical or hegemonic masculinities—such as framing anti-violence work as a way to be a "real man" or a "protector"—risk undermining the very goals of gender transformation by upholding the same gender hierarchies that sustain violence²⁵. Moreover, over-reliance on women survivors

¹⁹ Karen Graaff, 'The Implications of a Narrow Understanding of Gender-Based Violence', *Feminist Encounters: A Journal of Critical Studies in Culture and Politics* 5, no. 1 (2021): 12. <https://doi.org/10.20897/femenc/9749>.

²⁰ Dean Peacock and Gary Barker, 'Working with Men and Boys to Prevent Gender-Based Violence: Principles, Lessons Learned, and Ways Forward', *Men and Masculinities* 17, no. 5 (2014): 578–99. <https://doi.org/10.1177/1097184x14558240>.

²¹ Erin Casey et al., 'Gender Transformative Approaches to Engaging Men in Gender-Based Violence Prevention: A Review and Conceptual Model', *Trauma, Violence, & Abuse* 19, no. 2 (2018): 231–46. <https://doi.org/10.1177/1524838016650191>.

²² Dean Peacock and Gary Barker, 'Working with Men and Boys to Prevent Gender-Based Violence: Principles, Lessons Learned, and Ways Forward', *Men and Masculinities* 17, no. 5 (2014): 578–99. <https://doi.org/10.1177/1097184x14558240>.

²³ Erin A. Casey et al., 'What Motivates Men's Involvement in Gender-Based Violence Prevention? Latent Class Profiles and Correlates in an International Sample of Men', *Men and Masculinities* 20, no. 3 (2017): 294–316. <https://doi.org/10.1177/1097184x16634801>.

²⁴ Erin Casey et al., 'Gender Transformative Approaches to Engaging Men in Gender-Based Violence Prevention: A Review and Conceptual Model', *Trauma, Violence, & Abuse* 19, no. 2 (2018): 231–46. <https://doi.org/10.1177/1524838016650191>.

²⁵ Juliana Carlson et al., 'Strategies to Engage Men and Boys in Violence Prevention: A Global Organizational Perspective', *Violence against Women* 21, no. 11 (2015): 1406–25. <https://doi.org/10.1177/1077801215594888>.

to trigger men's emotional investment in GBVF work (e.g. through storytelling) can reproduce emotional burdens on survivors and recentralize men in anti-violence narratives. Finally, some gender-transformative approaches may unintentionally reinforce gender binaries or exclude queer, trans, and non-binary people, limiting the inclusivity and intersectionality needed for effective GBVF prevention²⁶. As such, engaging men must be done with critical awareness, political clarity, and accountability to feminist and survivor-led priorities²⁷.

South Africa's Plural Legal Framework

South Africa has a good legal framework for responding to gender-based violence. Importantly, South Africa has a plural legal system, which means that there is more than one system of laws governing South African society. These are the criminal justice system and customary laws. The section below briefly discusses some of the criminal laws that are used to respond to GBVF and the national strategic plan for GBVF, followed by a discussion of customary law. The section will also explore the implications of this plural justice system for how justice is pursued by survivors.

A key piece of legislation responding to GBVF in South Africa is The Criminal Law on Sexual Offences and Related Matters Act that defines sexual crimes and has been updated through amendments in 2007²⁸ and 2021²⁹. It provides a broad definition of rape that includes all forms of penetration, which is crucial as a gender-neutral law. A gender-neutral law is important in order for the inclusion of LGBTQIA+ groups and men who experience GBV to access justice. The definition of rape that is not gender neutral would lead to some vulnerable individuals to be left out without recourse for the violence they experience. The Act requires mandatory reporting by professionals such as teachers or doctors, and also creates a National Sex Offenders Register. Some of the findings presented in this report show the significance of mandatory reporting. Some survivors of GBV saw interaction with a health care worker as an opportunity to access justice, but this did not always happen as the health care workers would not take the issues further. Each interaction with professionals, with the current legislation, now means that it is an opportunity for a survivor to access justice. The Criminal and Related Matters Amendment Act 12 of 2021³⁰ makes courts and policing stronger in GBV/sexual offence cases, with stricter bail and parole conditions, quicker court procedures,

²⁶ Erin Casey et al., 'Gender Transformative Approaches to Engaging Men in Gender-Based Violence Prevention: A Review and Conceptual Model', *Trauma, Violence, & Abuse* 19, no. 2 (2018): 231–46, <https://doi.org/10.1177/1524838016650191>.

²⁷ 'Working with Men and Boys for Gender Equality: State of Play and Future Directions', UN Women – Headquarters, 11 June 2020, <https://www.unwomen.org/en/digital-library/publications/2021/11/policy-brief-working-with-men-and-boys-for-gender-equality>.

²⁸ *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007*, n.d.

²⁹ 'Criminal and Related Matters Amendment Act 12 of 2021 (English / Afrikaans) | South African Government', accessed 30 July 2025, <https://www.gov.za/documents/acts/criminal-and-related-matters-amendment-act-12-2021-english-afrikaans-28-jan-2022>.

³⁰ 'Criminal and Related Matters Amendment Act 12 of 2021 (English / Afrikaans) | South African Government', accessed 30 July 2025, <https://www.gov.za/documents/acts/criminal-and-related-matters-amendment-act-12-2021-english-afrikaans-28-jan-2022>.

and the prioritization of victim safety through provisions such as allowing video testimony and training for police and court staff. Other laws include the Domestic Violence Amendment Act 14 of 2021³¹, which includes Spiritual abuse, technology facilitated abuse, online victim application for protection orders, and the ordering of abusers to surrender firearms. The Protection from Harassment Act 17 of 2011³² provides protection orders and quick legal relief. A harassed person can apply to the court for a protection order without a lawyer. The court can order the harasser to stop immediately, and the harasser can be arrested and charged. The Protection from Harassment Act also covers cyber bullying and police enforcement of protections. Lastly, The Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA)³³ is a transformative legal instrument that recognises systemic discrimination and mandates positive measures to promote equality—particularly in the spheres of race, gender, and disability. PEPUDA provides for responding to root causes of GBVF such as socioeconomic inequality that results in vulnerability to GBVF for black women.

National Strategic Plan for Gender Based Violence and Femicide

In 2020, a National Strategic Plan (NSP) for Gender Based Violence and Femicide was launched to combat GBV and femicide in the country³⁴. The NSP has six key pillars: Prevention; Strengthening the legal justice system; Services for Survivors; Building Institutions and Capacity; Economic Empowerment; Coordination; Monitoring and Evaluation³⁵. According to the NSP, data on gender-based violence remains a critical concern, as most incidents remain undocumented, underreported, and unaccounted for in the national statistics. The NSP is targeted at the root causes of GBVF and is aimed at providing long-term cultural and structural change. It identifies GBVF as rooted in structural inequality, patriarchy, and systemic failures, including noting that: 1. South Africa's apartheid history of economic exclusion and institutionalised violence normalised violence as a form of control particularly against women and marginalised groups. 2. Patriarchal gender norms and toxic masculinities perpetuate male dominance, while women's economic disempowerment, poverty, and social dependency further increase their vulnerability. 3. The criminal justice system is ineffective and 4. Cultural and social norms deepen gender inequalities and acceptance of violence. The NSP adopts an intersectional lens, recognising that women who are poor, Black, rural, migrant, disabled, LGBTQIA+, and/or living with HIV face compounded forms of violence and exclusion. The NSP is a comprehensive framework that provides a roadmap for stakeholders to have coordinated efforts towards preventing GBVF,

³¹ 'Domestic Violence Amendment Act 14 of 2021 (English / Afrikaans) | South African Government', accessed 30 July 2025, <https://www.gov.za/documents/acts/domestic-violence-amendment-act-14-2021-english-afrikaans-28-jan-2022>.

³² 'Protection from Harassment Act 17 of 2011 | South African Government', accessed 30 July 2025, <https://www.gov.za/documents/acts/protection-harassment-act-17-2011-05-dec-2011>.

³³ 'Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 | South African Government', accessed 30 July 2025, <https://www.gov.za/documents/promotion-equality-and-prevention-unfair-discrimination-act>.

³⁴ Government of South Africa, *National Strategic Plan on Gender Based Violence and Femicide (GBVF)*. (Pretoria, 2020), <https://www.justice.gov.za/vg/gbv/nsp-gbv-final-doc-04-05.pdf>.

³⁵ Government of South Africa, *National Strategic Plan on Gender Based Violence and Femicide (GBVF)*. (Pretoria, 2020), <https://www.justice.gov.za/vg/gbv/nsp-gbv-final-doc-04-05.pdf>.

supporting survivors/victims, and advancing economic empowerment of women. While the NSP framework focuses on women and children, it recognises that LGBTQIA+ people, especially those who are gender nonconforming, transgender, or gender diverse, are at risk of GBVF. The NSP, therefore, calls for targeted interventions to support LGBTQIA+ survivors of GBVF, highlights specific forms of GBVF that affect LGBTQIA+ people, and acknowledges hate crimes. Significantly, the NSP calls for the training of service providers to be LGBTQIA+ inclusive and sensitised to the intersectionality of LGBTQIA+ identities, so that LGBTQIA+ survivors are treated with dignity.

Customary Law

The 1996 constitution of South Africa³⁶ makes South Africa a legal pluralist state, meaning that both statutory law and customary law have legal force. Customary law is subject to the constitution,³⁷ however there may be some tensions between the Bill of Rights and some interpretations of African legal tradition or customary law. It is difficult to estimate how many people live primarily according to customary law rather than under the criminal justice system. For example, more than half a million people are married under customary law³⁸. In a legal pluralist state, people choose which legal system to regulate their lives at different moments. This leads to the important question of what informs the choice of the legal system chosen. Is it about proximity, trust in the process or understanding of the law that influences whether individuals choose the criminal justice system, or choose the customary law in their pursuit of justice for GBVF? And to what extent are survivors able to freely choose which system to turn to, given pressures that may be placed on them by their families and communities?

In some cases, people pursue justice using customary law and later shift to the criminal justice system. For example, a woman sought to dissolve her marriage through customary law channels and later sought maintenance for her children through the courts³⁹. A possible explanation of this shift may be that there were challenges faced in the dissolution of the marriage, where the mother-in-law did not support her cause, leading her to engage the courts instead of attempting to pursue resolution of her issue in the same way. State courts are

³⁶ [The Constitution of the Republic of South Africa, 1996 \(1996\).
https://www.justice.gov.za/constitution/SACConstitution-web-eng.pdf.](https://www.justice.gov.za/constitution/SACConstitution-web-eng.pdf)

³⁷ Ndelitungapo Eunice Sakaria, 'Access to Justice for Black Women in South Africa: A Feminist Social Justice Perspective' (University of Pretoria, 2022).

³⁸ Elena Moore and Chuma Himonga, 'Living Customary Law and Families in South Africa', in *South African Child Gauge*, ed. K Hall et al. (Cape Town: Children's Institute, 2018), https://www.researchgate.net/profile/Katharine-Hall/publication/334169664_South_African_Child_Gauge_2018_Children_Families_and_the_State_Collaboration_and_Contestation/links/5d1b56f992851cf4405cf7e4/South-African-Child-Gauge-2018-Children-Families-and-the-State-Collaboration-and-Contestation.pdf#page=63.

³⁹ Ndelitungapo Eunice Sakaria, 'Access to Justice for Black Women in South Africa: A Feminist Social Justice Perspective' (University of Pretoria, 2022); Elena Moore and Chuma Himonga, 'Living Customary Law and Families in South Africa', in *South African Child Gauge*, ed. K Hall et al. (Cape Town: Children's Institute, 2018), https://www.researchgate.net/profile/Katharine-Hall/publication/334169664_South_African_Child_Gauge_2018_Children_Families_and_the_State_Collaboration_and_Contestation/links/5d1b56f992851cf4405cf7e4/South-African-Child-Gauge-2018-Children-Families-and-the-State-Collaboration-and-Contestation.pdf#page=63.

perceived to be more powerful than customary courts, and there are some cases that are seen to be appropriate for customary law intervention such as domestic violence and divorce whereas maintenance and compensation are transferred to state courts⁴⁰. While women seek to resolve domestic violence disputes through the customary courts, this requires critical engagement to understand why women choose this and if it serves their best interests. Reporting to the police is, at times, interpreted by family as being disloyal and bringing outsiders into a family matter, a violation of culturally correct procedures⁴¹. This creates tensions in a country where domestic violence is of serious concern. It raises questions as to how can customary law be applied in ways that advance justice for survivors of GBVF.

Survivor Conceptualisation of Justice for GBVF

Studies show that survivors have diverse conceptualisations and understandings of justice. Survivors' own understandings of justice often go beyond formal legal outcomes. They include being believed, experiencing dignity, achieving healing, receiving protection from future harm, and regaining agency⁴². This conceptualisation foregrounds justice as both relational and transformative, encompassing not only punishment but also healing, recognition, and social change. Healing is framed as a holistic and embodied process that requires community support, reconnection, and safe spaces for storytelling and creative expression⁴³. Examples such as embroidery collectives and embodied arts practices illustrate how survivors can reclaim agency and narrate their own experiences outside of courtroom settings⁴⁴. These practices offer pathways to justice that are therapeutic, affirming, and grounded in decolonial feminist values. In one case study, a church facilitated a space for healing for women and LGBTQIA+ individuals⁴⁵. However, the church has been shown to be

⁴⁰ Ndelitungapo Eunice Sakaria, 'Access to Justice for Black Women in South Africa: A Feminist Social Justice Perspective' (University of Pretoria, 2022).

⁴¹ Elena Moore and Chuma Himonga, 'Living Customary Law and Families in South Africa', in *South African Child Gauge*, ed. K Hall et al. (Cape Town: Children's Institute, 2018), https://www.researchgate.net/profile/Katharine-Hall/publication/334169664_South_African_Child_Gauge_2018_Children_Families_and_the_State_Collaboration_and_Contestation/links/5d1b56f992851cf4405cf7e4/South-African-Child-Gauge-2018-Children-Families-and-the-State-Collaboration-and-Contestation.pdf#page=63.

⁴² Marianne Hester et al., 'What Is Justice? Perspectives of Victims-Survivors of Gender-Based Violence', *Violence Against Women* 31, no. 2 (2025): 570–97, <https://doi.org/10.1177/10778012231214772>.

⁴³ Zamantshali Dlamini, 'Beyond Binaries: Gender-Based Violence Survivors Rethreading Embodied Healing and Redefining Accompaniment through Creative Feminist Resources and Processes', *Feminist Theology* 33, no. 2 (2025): 123–36, <https://doi.org/10.1177/09667350241298627>; Puleng Segalo and Michelle Fine, 'Under Lying Conditions of Gender-based Violence—Decolonial Feminism Meets Epistemic Ignorance: Critical Transnational Conversations', *Social and Personality Psychology Compass* 14, no. 10 (2020): 1–10, <https://doi.org/10.1111/spc3.12568>.

⁴⁴ Patricia Melgar Alcantud et al., "'I Think I Will Need Help": A Systematic Review of Who Facilitates the Recovery from Gender-Based Violence and How They Do So', *Health Expectations: An International Journal of Public Participation in Health Care and Health Policy* 24, no. 1 (2021): 1–7, <https://doi.org/10.1111/hex.13157>; Laura Sinko and Denise Saint Arnault, 'Finding the Strength to Heal: Understanding Recovery After Gender-Based Violence', *Violence Against Women* 26, nos 12–13 (2020): 1616–35, <https://doi.org/10.1177/1077801219885185>.

⁴⁵ Zamantshali Dlamini, 'Beyond Binaries: Gender-Based Violence Survivors Rethreading Embodied Healing and Redefining Accompaniment through Creative Feminist Resources and Processes', *Feminist Theology* 33, no. 2 (2025): 123–36, <https://doi.org/10.1177/09667350241298627>.

complicit in upholding patriarchal attitudes and ineffective in responding to GBVF in effective ways necessitating critical engagement⁴⁶. Justice when understood as relational is centred on giving voice to the survivor and prioritising their perspectives and goals.

⁴⁶ Fundiswa A. Kobo, 'A Womanist Exposition of Pseudo-Spirituality and the Cry of an Oppressed African Woman', *HTS Teologiese Studies / Theological Studies* 74, no. 1 (2018), <https://doi.org/10.4102/hts.v74i1.4896>.

METHODOLOGY

Epistemic decolonisation focuses on valuing local, indigenous, and feminist knowledges in both research and programming⁴⁷. This research aimed at exploring grassroots feminist principles and the voices of survivors through participatory and locally driven research, where communities could co-create research tools, define justice on their own terms, and centre culturally relevant healing practices. The research followed a qualitative approach with the use of key informant interviews (KIIs) and focus group discussions for data generation. In a bid to follow a decolonial approach, the research was designed to involve the Masibambisane partners in the design and implementation of the research.

The Masibambisane partners participated in a research training workshop where a draft literature review of the study was presented and discussed. During the workshop the partners also gave input on the research instruments, to ensure that questions for the focus group discussions were culturally sensitive and relevant. Partners were also trained on how to conduct focus group discussions which they organised and facilitated. Data was generated through involving both organisational staff as key informants and community members who participated in focus group discussions and interviews. Data analysis followed a collaborative thematic approach. This was designed in a way to include a skills development component in the research. FHR staff involved in the project had the opportunity to learn a qualitative research approach. The collaborative thematic analysis was well suited for this, as FHR staff conducted thematic analysis which was initially inductive to generate a codebook and later abductive using the codebook to analyse all transcripts. Once interviews and the focus group discussions had been completed, transcription and translation were conducted by university students. FHR staff were involved in the data analysis process.

A total of a hundred and ninety-seven (197) people participated in the research. Twenty (22) leaders of the Masibambisane programme participated in virtual Key Informant Interviews (KIIs) conducted by FHR Programme Officers. Thirty (30) in-person Focus Group Discussions were held; twenty (21) with women, one (1) with men, three (3) with LGBTQIA+ participants, and five (5) with family members of survivors. Three (3) additional interviews were conducted with two (2) survivors (1 female, 1 male) and one (1) female survivor living with a disability.

The main limitation of this study was the time available to conduct the research following a decolonial approach that included the Masibambisane partners as co-investigators in substantive ways. This time limitation was mitigated through employing a collaborative approach to the data gathering and analysis. The collaboration involved inclusion of FHR staff firstly as they conducted the key informant interviews and also in the data analysis through conducting the thematic analysis of the key informant interview and focus group

⁴⁷Dean Peacock and Gary Barker, 'Working with Men and Boys to Prevent Gender-Based Violence: Principles, Lessons Learned, and Ways Forward', *Men and Masculinities* 17, no. 5 (2014): 578–99. <https://doi.org/10.1177/1097184x14558240>.

discussions transcripts. FHR staff received training and support in conducting these research activities. The Masibambisane partners organised and facilitated the focus group discussions and while they were not involved in the analysis process, they participated in a session where they commented on a first draft of the research report. Conclusions drawn from this research are not representative of all in the Masibambisane communities but give us an understanding of what justice means for people who actively seek out justice for GBVF. The findings presented below are drawn from participants in the focus group discussions who self-selected to participate. They also had previously interacted with the Masibambisane partners while seeking justice for GBVF.

FINDINGS

This section of the report presents the findings from the key informant interviews and focus group discussions. In order to maintain anonymity of all participants, the quotations presented below only have the gender identifier and location of the organisation, that is, whether is it urban, peri-urban or rural based, without the name of the organisation. Based on the sample size and research design, the discussion below does not disaggregate findings according to provincial variances due to time constraints. However, further research may explore these differences. The first discussion will focus on the criminal justice system and the challenges that participants cited when pursuing justice. This will be followed by the social cultural factors that influence experiences of pursuing justice, highlighting the challenges of customary approaches to pursuing justice for GBVF. The section will end with a discussion of how justice has been conceptualised by the participants in this study.

Seeking Justice Through the Criminal Justice

Many participants reported seeking justice through the criminal justice system. Some participants reported positive experiences with reporting to the police. In some instances, this was a result of having support from the Masibambisane partner organisations for the process. However since participants self-selected to participate in the focus group discussions. This may mean that those who chose to participate in the research had a more active approach to pursuing justice through the criminal justice system. The criminal justice system remains as one of the main approaches to justice for GBVF and the discussion following focuses on the hurdles that survivors encounter when pursuing justice through the criminal justice system. The reported experiences of the criminal justice system paint a bleak picture for accessing legal justice. They expressed reluctance to engage with the police as the quotations below will show. One female peri-urban participant shared:

*From what I have seen, seeking justice kukuzilimaza kakhulu (it is causing harm to oneself) unless unama cent (unless you are monied).
(Female Survivor, Peri-Urban)*

Seeking justice is not only presented as harming oneself but it also requires financial resources. This presents a negative perception of the criminal justice system, with the avenue expected to secure justice and provide reprieve for harm, instead being experienced as self-inflicted harm. The above speaker says money is one way to reduce the *ukuzilimaza* that comes with seeking justice. Here they may be talking about the financial resources required for legal counsel and representation which other participants also spoke about. Finances are also significant as discussed by other participants where the survivor may be financially dependent on the perpetrator and choose not to seek justice out of fear of losing the financial support. The need for money may also be alluding to bribes which will be discussed further in the report as participants spoke about corruption in the legal justice system.

Linking back to *ukuzilimaza*, in the instance below, the speaker had two protection orders

which were rendered ineffective by the police's response. This participant reports that they experienced more violence because they reported to the police who did not intervene. Here reporting to the police led the participant to experience further harm because the police did not intervene. The police said the survivor needed to make a report at a time when they did not smell of alcohol. The survivor here faced moral judgement from the police and their subsequent refusal to assist.

I had two restraining orders, none of them were enforced. In fact, the police told me, madam, we are now sick and tired of you calling us. Why don't you withdraw your restraining order? Because you are just putting pressure on us, whereby proper cases could have been investigated. And I didn't get help. Again, second protection order... There was nothing left of me. I was bleeding profusely. Again, I had a little bit of alcohol in my system... I couldn't move, I couldn't walk. And they said to me, we are very sorry, madam, we will not be attending to your problems in future. I said, please, I'm begging you, just take me to hospital. They refused and said, you must come in later tomorrow, when you don't smell like alcohol, and you must get a lift for yourself to go to hospital. And I was still bleeding. That night, because I got the police out, that man beat me even more. And there was basically almost nothing left of me. (Female, Urban)

Reporting on negative experiences with the criminal justice system continues below in discussions of mistreatment and discrimination against LGBTQIA+ people resulting in a low expectation of receiving justice in this way. The focus group participants presented different scenarios, some which are very traumatic as in the case of an LGBTQIA+ person who was raped and assaulted physically and with acid. After being brought to a police station, instead of being assisted and receiving medical attention they were put in a cell. It is only when a new group of police came on duty and one of the officers recognised the complainant that the survivor was sent to a health care facility:

One of our friends was assaulted here in the community and the car placed him right in front of the police station. This person was being poured with acid, they threw stones at him, they dragged him and then raped him. They delivered him to the police station when they were done. He crawled his way inside the police station. They can see that this person cannot talk because they poured acid on him, but the police did not handle it with care because they could see sisitabane [they are gay]. It was said that when they realised that sisitabane [they are gay], they locked him up in a cell – instead of taking him to the hospital. He was only helped by the police who were entering the 6 am shift only because one of the ladies on duty know her and she took her to the hospital. (LGBTQIA+, Rural)

In the above case the complainant received attention because a police officer recognised them. Being known by the police mediated access. At other times, when the perpetrator is known by the police, it leads to a disruption of access to justice for the survivor. Below the survivor was seeking justice in a different province where their ex-husband was known and this became a barrier for her to access justice.

But it's sad that even if we report it, the police don't take note of us. I went to court already for help. Nobody takes note of me. They're biased.... They know your boyfriend. They know people like that because they grew up in that town. And they just ignore you. They laugh at you. I watch them laugh at me when I'm sitting in pain and broken. And they literally laugh at you. They ignore you like you don't even exist in that office. And you walk out again because you don't know where to. Where must I get help from? Everybody is... Not even the government is helping. (Female Survivor, Urban)

This is similarly reported by the following participant. The police contacted her uncle in order to dissuade her from pursuing the case where she wanted the perpetrator arrested.

I just told them I want nothing to do with them, and they said they won't speak to me at the police station and they took my number and took me home and told me they'd speak to me tomorrow, I slept and then the following day the police officer said I must call him if I decided not to speak with them and I did and I told him I want them arrested and he hung up on me, he called my uncle and told him and immediately got a message from him telling me I'll die a painful death and I decided to leave it at that. So, yes, it's very hard. (Female Survivor, Rural)

The interactions with the police determine the ways survivors experience justice. The above discussions have highlighted experiences of reporting to the police where survivors had negative experiences and did not receive the justice they sought. In some instances, reporting to the police results in more violence as a result of police profiling or passing moral judgement for example for LGBTQIA+ people whose injuries are ignored and instead their gender and sexuality are stigmatised or the person told to come and report when they do not smell of alcohol. Based on the above, reporting to the police does not ensure justice but may instead cause more harm. Furthermore, access to justice may be mediated by familiarity or being known by the police and this can mean that one receives the justice they seek or instead is prevented from accessing it. This also speaks to the low trust in state institutions reported in literature. While the South African legal framework for responding to GBVF is lauded, the above discussion highlights the gap between implementation and the encoded statutes. This also corresponds to the quantitative findings that there are low levels of reporting and provides some clues as to why there are low levels of reporting to the police.

The above discussion highlights survivors' frustrations with the police. This leads to some seeking measures to attain justice outside of the legal justice system and these are not always positive. For example, below, mob justice is brought forward as a solution. The speaker justifies this by saying that mob justice is effective when compared to reporting to the police. The ineffectiveness of the police here specifically focuses on cases where suspects are released without due recourse. This is similar to the earlier quote where the police had a member of the family convince a survivor not to pursue their case. This highlights a mistrust of the system, and the sense that reporting to the police even where a person is apprehended does not guarantee justice. From this perspective, mob justice may seem to be a justified approach to justice.

in whatever that is happening within the justice system, mob justice seems to be the only good solution at the moment, because when a person has done something wrong and get handed over to the police, the following day the person is roaming the streets and nothing has happened with them, they continue wherever he or she left off. They just go ahead with what they were doing whereas when a person goes to a correctional service and do not get corrected and is found to be committing crime by the community, it means the community needs to deal with them. That is why mob justice ends up being a solution because people are tired of relying on a system that fails them every now and then. You see people come back as they were, nothing has changed, even the case will never be attended again, so the mob justice works very well, it is a solution. (Female Survivor, Rural)

The above discussions present a bleak view of the criminal justice system when people report to the police. Instead of reporting being a gateway to accessing justice, from the above it is presented as harmful and at times making those who report more vulnerable to further violence. This leads to some preferring negative ways of pursuing justice as the above quote speaks of mob justice. Other participants spoke of revenge, where family members would pursue those accused of GBVF and mete out justice on their own terms.

Social, Cultural, Factors that influence perceptions of justice

Patriarchy and the South African Context

The data brought out several social, cultural and religious factors that influence not only perceptions of justice but also the ease with which people can access justice. These include: patriarchy, financial or economic status, traditional values, age, family allegiance, and gender stereotypes. These factors may also explain the challenges faced when reporting to the police. As one participant said:

Justice, it's like it's no longer there [background noise] where does South Africa stand truly truly? It's like someone who does something to you if you get them arrested, they could kill you. It's not the same as other world's [countries/places] where Justice is strict, if you did this you get killed [emphasizes] maybe these things of getting 'damaged' wouldn't be a thing, because, in court we buy [bribe] the magistrate, we have money. Our children can be able to make mistakes and then us who have money, we pay. The police, they have uh, what is it? [transcriber note collecting her thoughts] they have connections with the police, and here he's stalking you, like he's watching you through a satellite, when you go there, he sees you, and what you are doing (Female, Rural)

The perception expressed in the above quote is that of South Africa as a challenging context requiring intervention. The main issue with the South African context according to this participant is corruption. They speak of the bribing of magistrates and the police in a way that is claiming to be a part of the corruption. They say, “in court we buy [bribe] the magistrate, we have money.” By owning this corruption, saying “we bribe” including the speaker in the act of corruption of bribing the magistrate may be aimed at showing that the speaker holds the belief that for change to happen, it requires ownership in order for a solution to be found. Here corruption further emphasizes the gaps that socio-economic status creates for access to justice. In the previous section finances are mentioned as one thing that is significant in how one accesses justice. Here corruption in the system further makes financial standing significant. As literature has shown that black women tend to bear the brunt of poverty this means that corruption becomes a further hurdle in their attempts to access justice.

Another participant speaks of South Africa as patriarchal, which is further alluded to by another speaker who focuses on customs and beliefs that are male centred. These two quotes below further speak to participants' perceptions of South Africa's context that are significant when thinking about accessing justice.

South Africa is a men's country [patriarchal] because men have it easy and they don't pay for justice. Us [women] are made invisible, we are not seen. I don't know how to further describe this. (Female Survivor , Peri Urban)

The participant says South Africa is a men's country and women are invisible. This implies that men's interests are prioritised while women's are ignored. When they say men do not pay for justice it further implies that women pay for justice. This quote presents South Africa as a male centric context where preference is given to male interests. In the case of GBVF cases, where the majority of perpetrators are male, this male centric orientation presents a hurdle to securing justice. The following quote similarly contrasts women's experiences to those of men. According to this participant, women are expected to cater to men and disregard their own interests and needs. If seeking justice for GBVF goes against the interests of a man,

survivors' priorities would be disregarded

You know, as for me, I don't know if I should call it customs or beliefs, that when you are a woman, you must always worship men and do things that don't even please you, such as that women can't do certain things. I don't know who came up with these laws that women are less than men. (Family Member, Rural)

Family Priorities vs Survivor's Needs

In the above section, men's interests were contrasted to those of women highlighting that society prefers men. In this following section, the discussion places survivors' interests in contrast to those of the family. Here again the survivor is presented as having to give way to the family's priorities at the expense of pursuing justice for GBV. The participant below presents a context of a family where a survivor is asked to prioritise the family image and forfeit reporting GBV.

Or let me say, this has occurred within the family. When you come forward to the police, as you may... let's say want to seek justice against one of your family members. Then there would be some sayings within the family that, no this is your uncle or your cousin you can't press charges on him. Like what would people say? How would we live here at home? Things like that. Or maybe this person is also the breadwinner at home. 'If you press charges against him, what would we eat here at home'? You see? [agreements] or 'No, this is your family, you can't lay charges on him' where else he has violated you. [agreements]. Let us solve this as a family and not involve the police but try to discuss it. (Female Survivor, Township)

Here the survivors' interests are made secondary to those of the family. In a context where culturally elders are not to be contradicted, this means that survivors may never pursue justice on their own terms. It is also important to consider this as a risk when looking instances of pursuing justice outside the criminal justice system . Survivors may be further harmed by the process of seeking justice. The family, in the above quote, resists responding to the GBV and the survivor is forced to forfeit justice on their own terms. At other times the family may respond to the GBV, but in a way that does not correspond to the survivors' needs or goals. In the following quote, the family responded to GBV through fining the perpetrator who purchased a goat which was used in a ritual of cleansing. This was not sufficient for the survivor as they continue to experience the consequences of the GBV. The family, however, remained resolute that their approach to resolving the issue was sufficient. The image of the family is cited as priority silencing the survivor.

...and its draining because I told my grandfather who was alive at that time and my grandmother, my grandfather was polygamous and

he had 6 wives who stayed in one yard, so the one who raped me came to our home as someone who herds cows and just happened to have the same surname as us and they took him in without even knowing where he comes from. We grew up knowing he was our uncle and he had similarities to our uncles and had the same surname, so it happened [the abuse] and my grandmother saw that I wasn't walking properly and their belief was that the family's secret shouldn't be known to others so my grandfather just said the perpetrator should just buy a goat so that I can be cleansed from the bad act that has been done on me, and after that he was chased away. So, everything was fine to them because they had done things their way. So, when I saw him again was in 2022 when it was my grandfather's funeral, and I fainted at the gravesite for more than 3 hours caused I was scared of him and even when he left, I was scared of him, and he just appeared. So, when I told them that I'm a grown up now and it's time I stood up for myself, they told me I'd cause a disgrace. So, its draining cause they start giving you ultimatums that if you expose these secrets, you must also leave and never step foot in their house ever again, going as far as telling you you will be buried by the government. Once you expose our dirty laundry, you know the family rules. Once they declare their rules, it's done you can't argue with their rules and they tell you that 'we cleansed you, he bought a goat ad we cleansed you' (Female Survivor, Rural)

Other participants similarly expressed this challenge where family priorities contradicted their own priorities as survivors of GBVF. Below the parents centred their image, the need to be seen as good parents, over seeking the justice that the participant wanted to pursue.

In my experience, that is the main challenge. When I wanted to speak about my rape, my family always told me I would bring shame on them. They'd ask, "What will people say about our parenting? What will the rest of the family say?" I don't know [voice shaky] I am having a breakdown, but I am trying to calm down. Our families put us in a compromising situation. You end up unprotected, suppressing your voice and opinions. You are constantly forced to think of the family's image. (Female Survivor, Rural)

These challenges with the family are further compounded by the cultural expectation that one cannot argue with their parents. As the participant below alludes. The value of family is further highlighted when having family is expressed as a need one cannot survive without.

can I add, saying you can't back chat or argue with your elders, when you tell them that something like this happened to me and you elders tell you you're lying or that they don't believe you so you end up

letting it go cause your elders tell you it's not true and you see that they will never believe you cause you're young so who's going to believe me when they don't even believe me at home. So those beliefs make you feel like you have to keep it to yourself and the belief that without your family, who's going to bury you, you end up believing that you cannot be able to live without them, so you have to adhere to everything they say (Female Survivor, Rural)

The support from family is further complicated as the quote below shows that it is not always that family is supportive, but relationships may be complicated, affecting the ways in which justice may be pursued.

Facilitator: What about telling your family? Traditionally, you are expected to tell your uncles.

Speaker (Female): We don't really love each other. You find that we are from the same household, but we don't like each other. For instance, if you ask your uncle to intervene in your abuse, you might find your case being used against you by your own family members. (Female Survivor, Rural)

While family systems are diverse and the above discussions do not reflect all families it has highlighted the challenges that family centric approaches may present for survivors. The voice of the survivor may be silenced by family interests leading to justice being forfeited. This is significant when considering the earlier assertion that South Africa is a patriarchal country. This would mean that families also prioritise their male members, as the earlier quote alludes to family preferring a survivor to forgive instead of pursuing charges against relatives.

Generational Differences

Views about GBVF are said to differ according to generations with older generations said to hold more conservative views of relationships and more likely to advocate for one to endure GBVF.

Speaker 1: Yes, I would say so. We as you can open-up and converse about our problem, unlike the elders. Let me say, the elders still have their beliefs as elders. They are unlike us, we as the youth can share our problems, sit and discuss the things that are affecting us, unlike the elders.

Facilitator 1: Maybe when you say, their beliefs, I'm interested. May you please identify just one, maybe their beliefs, what would they be?

Speaker 1: Let's say for example this is the couple of elder. We are

going back to what you have mentioned about being abused in marriage. Then this female is being abused by the male. The female with the belief that, a woman's grave is alongside her husband's. So now, she can't leave the marriage because of the belief that marriage need perseverance. [agreements]

Speaker 4: And they would say you cannot leave because the dowry cannot be replaced, how will you come back when there would be no cows to trade in (Female Survivor, Township)

Some participants report shifts in traditional understandings for example of relationships as the speaker below says Basotho culture promotes mutual respect between a man and a woman and that women should be given the equal rights they claim. While such reports are important in building hope, it is important that they are engaged with critically so that such shifts in cultural understandings lead to safer communities for all.

Facilitator : Ngiyakuzwa [I hear you] when you were trying to get justice, did you get treated differently since you are a man? What beliefs about proper roles for men and women affect your and other survivor's ability to get proper justice?

Speaker : In the BaSotho culture, we uphold the belief that umfazi maka respect indoda [a woman must respect a man] and the man must also respect the woman and not impose our forefathers' beliefs. If women claim that they have rights, then we must give them the rights, but it must also be 50/50. funeka sincedisane [we need to help each other] to obtain the 50/50, not in a way where the other feels violated. One must do things out of their own will, whether they are a man or a woman. (Male Survivor, Peri-Urban)

Religious Beliefs

Another aspect of culture that has been cited is religion. The preceding discussion presents the opportunities culture presents for pursuing GBVF and the obstacles encountered due to culture. Religion is cited by some as a challenge or more precisely the cause of experiences of GBVF, while others talk about religion as a space that helped them to access justice. Like culture, religion requires critical engagement so that its negative impacts can be minimised while promoting the benefits that can be found in religion in regard to accessing justice for GBVF. In the first quote, religion is cited as the reason why the participant did not pursue justice.

Even from my husband whom I married as a virgin, and who was my first love, he didn't support me. My mother-in-law was like a mother to me; she taught me right from wrong. Yes, we get triggered along

the way, but you must analyse things for yourself in order to move forward. Think about how to change your life and your children's lives. They didn't help me. I lost everything, but I told myself I wouldn't cry over it. I would start afresh with my children. Though I'm still struggling, I was assisted by social workers. They pay me well and know my situation. I didn't even have food to cook. He doesn't maintain me, even though the court ruled that he must. The judge said if he didn't, I should return to court, and he'd be jailed for 15 years. But because I'm a believer, I couldn't bring myself to have him arrested. Is it worth it to get him jailed for not maintaining me? No. You don't do wrong to others. When you take your own revenge, God won't intervene. He lets you be. But if you cast your burdens on Him, He answers. (Female Survivor, Rural)

The above quoted participant cites religion as the reason why they did not pursue justice through the criminal justice system. Religion informed this response as they saw pursuing justice which would have been the perpetrator facing jail time as wrong and instead chose to believe that God would intervene. While this prioritises the survivors' interests in contrast to the earlier discussions on family, it raises questions of whether this religion informed decision is good, as the speaker reports that they are struggling. Perhaps the jail sentence would not have made a difference to their situation. This speaker further reports positively on the support from social workers. Religion informs survivors' approaches to justice and requires further critical engagement to explore the opportunities and challenges in presents towards gaining justice for GBVF. The second speaker below reports a more positive experience with the church and receiving support.

Okay. I went to my church. I spoke about it at church. I was raped and beaten by my father's older brother [tata omdala]. Unfortunately or fortunately, it resulted in a pregnancy. It was not easy to go and lay charges because my parents and sisters were there. I tried to cry, but even though I had spoken of this ordeal, nobody was listening or taking action. After realising that, I tried to commit suicide. I drank two water purification tablets, but my suicide attempts did not succeed. Even during pregnancy and antenatal care I was only 14. I kept hoping the nurse would ask how I fell pregnant. But no nurse asked. I wanted to speak out. I eventually told one nurse, but I had doubts. I asked myself if my own family neglected me, would a stranger really listen? I decided to continue with my life. Last year, I was on a healing journey. I confided in my pastor and told them about my problem. The pastor asked what steps I wanted to take. I said I did not know, but it was difficult to live like that, and I could not sleep. If my uncle could rape and beat me, anyone could be a victim of this violence. I did not speak to expose my family. I wanted to speak out to warn children. So, in my case, I was really helped by the church. (Family Member, Rural)

The above quote highlights several important points of intervention that could have supported the survivor towards pursuing justice. They were pregnant at fourteen years of age, and their family did not support pursuing justice, choosing instead to silence them. The health care workers who attended to them during the pregnancy also did not assist. The survivor did not have any support until they found it in a church. Current legislation mandates teachers and healthcare workers to report cases of GBV, which should ensure health care workers respond differently, but may not do so in practice. The survivor reports attempting suicide as a result of their experiences and lack of support from their family. The impact of GBV and the further lack of support from family in pursuing justice has serious implications as seen above.

In the above discussion religion presents relatively positive outcomes as well as less positive outcomes in the pursuit of justice for GBVF. This signals a need to further engage with questions about how religion influences positively or negatively how people access justice. What are the consequences for the perpetrator who did not face the consequences of the law as a result of the survivor's beliefs? Do they see this as a free pass and continue to engage in abusive behaviour? This is even more significant as the first speaker forfeits a promised consequence of jail time because of their beliefs, in a context where many are seeking justice and not receiving any such promise.

Gender Stereotypes

Linking back to the issue of South Africa being patriarchal are the gendered stereotypes as the below quote speaks of male survivors of GBVF and the challenges they face when attempting to get justice for GBVF. This is a clear example of the need for a critical engagement with the issues discussed in this section. While in the above quotes women are said to be expected to 'worship' men, this same system does not have space for men's vulnerability. This is important to reflect on in relation to the following questions: What are the consequences of this, does it lead to toxic masculinity and thus more violence within society? and What are the ways to intervene taking into cognisance the greater vulnerability to GBVF that women and LGBTQIA+ face in contrast to men?

Another thing sister on this thing of male and female, if my girlfriend is abusing me or is beating me, I might be reluctant to go to the police station because at the police station I will be laughed at and even be reluctant to report it to my friend because I will be labelled as a weakling - how do I get abused by a woman? These are some of the things that happen (Male Survivor, Township)

Below the quote describes the ways in which males navigate the system in order to get justice for GBVF, highlighting the challenges this entails.

Speaker (Male voice): We don't go to court because we have concluded that we will not be assisted. We'll be laughed at and sent to pillar to post.

We don't have that patience. They will tell you to come back to court at court 25.

[Male voice interjects]

Speaker (Male voice): And when you speak, they will call their colleagues to make a laughing stock out of you.

...

Speaker (Male voice): The police fail us as men. They fail us a lot. Social workers are better than the police. They are nonsensical. They will laugh at you when you go and open your case. Because when you go to [Named place] to open a case, they will laugh at you and ask if you are not a man. [Male voice interjects]

Speaker (Male voice): There's no privacy. Your case is discussed in front of people.

Speaker (Male voice): Now that means I must take the law into my own hands because they are now saying I must do as I please.

Speaker (Male voice): But if it's a man, they would bring ten vans.

Speaker (Male voice): They will arrest you! You see, the police fail us.

(Male Survivor, Township)

Financial Resources

Finances impact on justice in significant ways in addition to the earlier discussion about finances for the paying of bribes. People reported their dependence on the perpetrator as a deterrent to their seeking justice. As earlier discussed, black women are disproportionately affected by poverty. As such it is more likely that a survivor of GBV is dependent on the perpetrator. This also means that survivors may not want justice in the form of a jail sentence that would leave them without financial support as such survivors may want to pursue restorative justice.

You can also turn back from the police station, just when you thought... [overlapping voices] if I get this person arrested what would I ever eat again? Do you understand? Maybe this person is also your means of living. [overlapping voices, or maybe he is the breadwinner]. I will get him arrested, so, what would I eat? No, I might as well just turn back, saying, he will come back to his senses and be all right. Even though he would do the same thing again. (Female Survivor, Township)

For others, it was finances for transport to get to court, and for LGBTQIA+ people it was the influence of the image of financial power one has in the family or community which can be a protective factor against GBVF.

Those were some obstacles. I had no money to attend court cases; I would be without food, and he was not bothered. Those were some challenges. I

left without knowing where I would go. (Female Survivor, Rural)

What is justice for survivors of GBVF?

The above findings discussion has presented the challenges faced in pursuing justice through the criminal justice system and the demographic factors that influence how justice is pursued. In the following section the report focuses on how justice is conceptualised. What is it that people are seeking after they survive GBV? There are wide-ranging answers to the question what is justice? For some of the participants in this study it is revenge, getting pay back for the harm experienced, while for others it is for the perpetrator to receive a just penalty from the law.

Justice is expressed as safety, when a survivor feels they are safe within their community and does not fear or live with the threat of being violated. When justice is expressed, some cite the release of perpetrators after arrest without recourse. When the perpetrator is released, the safety of the survivor is no longer assured.

My ideal justice would have been the moment I told the police about him he should have been incarcerated immediately. Not the day after that. Not still after an interdict. Not that... And that must be... I think ideal justice would have been... I should not have to be scared to lay a complaint in fear that he will come out and do something to me. Before they arrest him. And then... My... But they did that already. Put my child and I in a safe place. But knowingly... Almost... In my situation, I would have just said, it is a state witness programme situation because he was limited like that. So... And after that, I know he is locked up for a period and that he has to pay for what he has done. And my son and I will be safe. (Female Survivor, Peri-Urban)

The following quote similarly speaks to this:

Justice is for me I want to see what is the outcast [transcriber note: she likely meant “outcome”] of the story. What are you guys going to do about it. Eg. If I was raped, I want justice to see what happens to the person. The person took my (voice becomes shaky and she appears to feel emotional and expresses herself in Afrikaans) freedom away from me without my permission and I want to see him go to jail. Not in a bad way for his family. I want to feel comfortable and not afraid or scared to go out. That is justice. (Female Survivor, Rural)

Survivors expressed the view of justice as safety in various ways. In the quote below the speaker did not see the point of pursuing justice when the perpetrator was not under arrest.

I won't lie; I don't know what I want to happen. I want to give up on

the law. I don't want to attend the court case anymore. I am asking myself if I have to attend a case with someone who's already released, what type of help would I receive? (Female Survivor, Rural)

Beyond the release of perpetrators or the delay in or lack of their arrest, in addition the data has examples of the police failing to protect survivors from perpetrators.

And what scared me so much because he was a gangster and was linked according to the number was that it was difficult for me to trust any police. Because in certain places the police are very corrupt. So, they will pick you up and drive with you tell you, no man, the guy calmed down, don't worry, he is all right now... And then they drop you at your house. (Female Survivor, Rural)

Several participants reported that the police would advise that they have a conversation with the perpetrator especially in cases where there was a relationship e.g. the perpetrator is a partner or other family relation as the above quote shows. As the above examples show, justice through the criminal justice system seemed elusive for many participants because the police did not intervene in the ways survivors expected them to and the ways that the law provides for. For others, justice is when the perpetrator acknowledges the harm they caused. In the quote below, for example, the speaker wants long-term sentences - not as punishment but with the hope that this would give the perpetrator time to learn and change their ways so they are no longer a threat.

In my opinion, with what I encountered, I wish they could realise that the decisions they took were wrong, so that we could have reached a conclusion together, and so the perpetrator could recognise the harm he caused. I haven't moved past what happened. I'm still wounded. Even as time progresses, he still doesn't acknowledge his mistakes or the impact of his decisions on my life. When we speak, the past always resurfaces, and this triggers me. I feel very stifled. (Female Survivor, Peri-urban)

For another participant, justice is when the perpetrator has changed and is no longer a threat to them or the community in general. As the quote below highlights, they viewed the length of a sentence as the time required for the perpetrator to see their harmful ways and to change. It is not always that a call for a sentence is for punishment; it may be about giving the perpetrator a chance to change their ways before they are reintroduced into the community.

Me, the way I see it, it's like, [unclear: "..."] when the person can get locked up for more 10 years, other times they might come back a different person, maybe even have felt how painful prison is. Because this one of them only sleeping for two weeks, two weekends just, eyy it doesn't work. They even tell the person "there's nowhere I am going,

I'll be back". So, when it's more than 10 years. I understand that maybe each and every person could actually change. (Female Survivor, Urban)

The above quote highlights the need to engage further with the concept of justice and what it means for each individual. At face value, longer sentence seems to signal punishment of the perpetrator which may not always be the true. Furthermore, obtaining justice for the family may contradict the form of justice survivors seek. So, justice may have been obtained but not what the survivor wanted. This is especially highlighted in the priorities of the family vs the survivor. The following quote further alludes to this:

I think that they, they - I think that some of the victims, they would like that to restorative one on other cases. But then the the survivors feel that even if the perpetrator is punished, it's not for the for the survivor, it's for the society. (Female Survivor, Rural)

Survivors may find that seeking justice does not speak to what is a priority for them. This may correspond to the low levels of reporting as a result of survivors' discontent with the justice that they would find. This leads us to how other survivors presented healing as the justice that they sought. This may be due to the realisation that the justice they pursue may not be what they want or avoid the challenges encountered when attempting to get justice. The below quote speaks of getting psychosocial support from social workers:

I didn't get my desired justice. I ended up approaching human rights organisations. I went to people who could stand up for me, like social workers, because I didn't get help from the police or my community. People judged me, so I opted for social workers instead (Female Survivor, Rural)

Similarly, other participants spoke of justice as comfort and finding this through reframing the narratives they had created about their experiences, such as stopping self-blame. This also included seeing a psychologist. In the below quote, two participants echoed each other, the second speaks of the "drama of court cases" which they report not having the capacity to engage with.

Speaker 1: "And what uhm...what justice I want for that was someone comforting me, telling me that, that it is wrong. And I think for many years I just had to forgive myself for being so vulnerable and not understanding what everything was about that time."

Speaker 2: "And to get justice for that or to just get peace for myself I had to go through a process of seeing a psychologist uhmm. And that was very emotional and from there you can learn that you don't have to blame yourself for certain things that have happened. I used to

look at people and thought that if I opened up to them, they would judge me. That they would say I wanted and deserved what had happened to me. And for many years I never opened up about it. I think seeking help and opening up actually helped me. It helped with finding my way forward and uhm getting healing." "Uhm for me it was like uhm ... Not that I didn't want justice but I didn't have the energy for the drama and court cases and all that. I decided to leave it as it is and find my own way of healing." (LGBTQIA+ Survivor, Urban)

In this section healing is cited as the ultimate form of justice that survivors want. Again, this raises questions of whether healing is the justice that people want without other forms of justice such as sentencing or is healing seen as the most probable form of justice that one gets and so no effort is put on the other kinds of justice.

I think that immediately when you heal in your spirit then you have found toka [justice], because you're no longer worry about the thing that happened, your spirit is at peace he's doing his own thing and you are also doing your own things, it's no longer that thing of anytime he can come, or that you're still thinking about him or maybe who is he still with, you by yourself you can heal (Family member, Peri-Urban)

Holistic Justice

The main research question is; How is justice understood by people directly affected by GBVF in Masibambisane communities? Justice as it emerged from the key informant interviews and focus group discussion is an expansive concept that encompasses various forms that may be termed justice in their own right. As one key informant said:

“Justice is a holistic or integrated approach to justice, includes a range of factors such as the criminal justice system, psychosocial justice, socio-economic justice and a survivor-centred approach to achieving justice and addressing the barriers in cases of GBV.” (KII, Urban)

Each of the concepts of justice that are identified as integral to holistic justice in the above quote are in turn discussed below:

Justice through the criminal justice system: This has been extensively discussed in this report, as well as the challenges that many face at the interface with the police. This may correspond to the low reporting rates for GBV, however significant too is that justice through the criminal justice system may not encompass all that survivors seek when pursuing justice.

Justice for me, I would be very happy if the police were adequately trained to deal with violence that is happening against us. I really don't think that I, myself felt it. If you get there, it is a man who can

make all kinds of accusations. I have bled, the police refused to pick me up and told me to [inaudible] myself. So justice for me on the one hand, I was raped and he got 30 years. (Women, Urban)

*survivors need efficient, respectful and accessible systems, that [don't] bring them to a space of secondary traumatisation. I want to see that courts, police, social services, especially social services, they need to be responsive, trained and survivor-centred in terms of their responses.
(KII, Urban)*

Psychosocial Justice: This frames justice as internal and emotional restoration, emphasising healing and psychological closure. Justice is often achieved through family, religious leaders, or psychosocial support. Survivors of GBVF are encouraged to seek out counselling or therapy as *way of healing and getting justice*.

“Some are just seeking justice that will provide healing.” (KII, Rural)

So, when she came to us, she was like, the only thing that I want is for me to find healing and get the strength to leave this marriage because it's not working for me. And I see that even if I take the justice route, it's not working for me either. So, I just want to heal, leave the marriage and be able to raise my kids (KII, Rural)

Socio-economic justice: This frames justice in terms of socioeconomic mobility and self-sufficiency, especially for marginalised or vulnerable groups. Justice is served when survivors are provided with economic opportunities, such as skills development, that enable independence and escape from abusive conditions. The female survivor in the quote below sites socio-economic issues as a cause of GBVF which need to be redressed to shift survivors' future outcomes.

the government needs to play its role and be strict in the application of the law. ... As a result of your socio-economic background, you are forced to endure abuse because you are financially dependent on the perpetrator. When you finally open a case, the government doesn't consider those background factors. There is no intersectional approach, unlike for the perpetrator, who goes to jail and gets access to resources, including education. Meanwhile, the victim has no support and remains stuck in the same life circumstances. (Female Survivor, Rural)

Survivor centred approach to justice: A justice model that prioritizes survivors' healing, dignity, and empowerment, often in contrast to state and criminal justice systems. As the discussions above showed, there is often a disconnect between family priorities and a survivor's priorities with respect to the type of justice sought.. An approach that centres the

survivors is imperative as they are the ones who bear the greatest harm. This is important when considering the evidence presented where families may silence the interests of the survivor. The quotes below show how justice can be survivor centric, the key informant reflects on the different priorities survivors may have.

it depends on what the client wants, because some of the clients want legal justice, that would be swift and fair prosecution. Others want specialized gender-based violence courts that are dedicated, that have dedicated prosecutors and are trained in handling sensitive cases. Other people want stronger sentencing. Other people in intimate partner violence cases want protection order. Then you'll find in the other end other people want psychosocial justice which has to deal with trauma informed support, you know, free counselling, safer spaces, healing programs. Other people want long mental health care, not just an emergency service. Other people want recognition of lived experiences in the justice process. Then you will find others want restorative justice and socio-economic justice. They want the compensation, they want access to housing and education and skills training. Whereas very few would look for transformative justice, you know, because other people are not really interested in transformative justice. (KII, Urban)

In the following quote a survivor talks about how they reported to the police in order to get a protection order and sought justice through the traditional justice route what they refer to as Tribal. This happened with support from a Masibambisane partner organisation.

I didn't delay. I went to the police station and explained my case. They asked if I wanted to open a case. I said no, I wanted a protection order. The police advised me to go to the magistrate's office, Room 74. I went there the same day. I explained the abuse my child and I were experiencing. They gave me a letter and explained that I must return on the 8th of July 2025. I took the letter home that night, but I hardly slept. The next day, I took the letter to Tribal and explained my situation. When I got to Tribal, I received help from the people at Masibambisane Partner Organisation. I was grateful they didn't delay my case. They followed up regularly and even called me. They'd ask how things were at home. Even yesterday [the day before this recording], I wasn't home. When I came back, my aunt and neighbour informed me that Tribal had called. I immediately sent them a call-back request. Before my saliva could dry, they had already returned my call. (Female Survivor, Rural)

Other approaches to justice that are not explicitly included in the above but are significant when thinking about a holistic approach to justice and came out in the data include:

Transformative justice: Justice aimed at addressing root causes of GBVF, like systemic

inequality, broken families, and lack of education. This would respond to the systemic issues such as South Africa being a patriarchal society or the socio-economic inequality that leads to more black women living in poverty and more vulnerable to GBVF.

The reason why people seek this justice it is because they need healing, and sometimes healing does not start from being abused. It starts from the reasons and then in terms of transformative justice, in terms of dealing with that root causes. (KII, township)

Restorative Justice: Justice that focuses on repairing the harm done to the victim. Here the socio-economic disparities that may lead survivors to pursue restorative justice need to be highlighted and the safety of the survivor prioritised. While justice needs to be survivor centred, what if restorative justice places the survivor at greater risk in what ways can the survivor be assisted safely. This links back to transformative justice and socio-economic justice as families and survivors may resort to restorative justice due to being financially dependent on the perpetrator.

Family may opt for mediation (restorative justice) due to factors such as the perpetrator being a close relative or breadwinner (KII, Urban)

For the other one the resorative justice, they have been using it through churches and then it look like it is not workin- (KII, Rural)

I think we have done a lot of work as well as on restorative justice and as I have said that we do a lot of family unification because we work with survivors and some of them are displaced from their homes and that is one if the things we are fighting. Even yesterday we has a conversation that if one has been abused, why has it to be the survivor that always moves out and to live in a shelter while the perpetrator live comfortably in the home. But most of the time when a survivor moves out of their home, maybe moves to a shelter we do a lot of work in terms of identifying that person back to their families. (KII, Township)

Community-Based Justice / Social Justice: Family/ community/ religious groups positive or negative influence towards achieving justice for the survivors and victims of GBVF. They influence how survivors understand what GBVF is and validate or invalidate how justice is sought. Some participants spoke of mob justice and revenge as the forms that community justice sometimes takes, at other times the community provided support, ensuring survivors report when they have been violated. Masibambisane partners work with communities bringing together different stakeholders as the quote below says

We have to specifically focus on GBV when it comes to more especially empowering women. We have been working with different stakeholders in our Community. One of our strongest or our strong

stakeholders is through the traditional leadership. We are working very well and the schools in our community, department of education, we also have the Office of the Social Worker in our community. We are having a very good relationship with NPA, Department of Health and. Social development. (KII, Rural)

Traditional Justice: This represents preferences for resolving conflicts or seeking justice through traditional or communal mechanisms, such as the Traditional Councils, or other stakeholders involved processes. This reflects trust in localised, relational systems of justice that emphasise restoration, reconciliation, and social cohesion. Traditional justice is usually pursued through the family or community and as already discussed there are risks of this misaligning with the needs and goals of the survivors which needs to be considered when pursuing traditional justice. The survivor in the quote below found resolve through a traditional leader and the key informants share how traditional justice is engaged.

I laid a complaint with the Induna (traditional leader). They discussed my case and advised that if it continued, I should go to the social workers. But it hadn't yet reached that stage. I was helped. (Female Survivor, Rural)

The key informant below delineates the cases that are deemed appropriate for traditional justice and rape is classified as a case for the social worker, who would by law have the duty of reporting to the police.

No, I think it has to do with the history that even our forefathers, our ancestors, they will resort to the traditional justice system. Hence, I've indicated that the current state of the criminal justice whereby people who report cases the cases will drag for a very long time and other communities will even resort to mob justice. So people prefer the traditional method, but since I explained to you that the set up in our communities is that people, they are not strangers. They are somehow related to each other. So they've trusted their traditional system from Way back. From our forefathers? Yes, they have the trust in the system, although I've indicated if it's a case, maybe where somebody has been for example, he has been raped, then that one will be referred to the Social worker and the SAPS. Current criminal justice will take place, but is it has to go in the history that people in in our community will resort to the traditional justice. (KII, Rural)

The quote below says family disputes are mediated within traditional justice mechanisms, however other participants cited pitfalls that this did not always ensure justice was served. Traditional justice mechanisms are most accessible for some rural communities and therefore need to be engaged with critically.

Normally a family will have a dispute, or they'll be fighting. They'll be a partners- maybe it will be a husband and a wife fighting and they'll

be having a dispute. We have indunas in each and every section in the community or in the village, they will report the case to the Head Men, which is the Induna will try to resolve the case He or she, if he can't resolve the case, he will escalate the issue to the Traditional Council, which is like a kangaroo court, but the traditional leadership or the traditional council will have by-laws which guide the community to resolve different cases in the community (KII, Rural)

CONCLUSION

Exploring justice for gender-based violence (GBV) in South Africa through a decolonial and intersectional lens identifies critical gaps between the country's robust legal framework and the lived realities of survivors, highlighting the need for alternative and complementary justice mechanisms rooted in local contexts. While GBV has often been defined narrowly as violence against women (VAW), inclusive definitions that account for violence against men, LGBTQIA+ individuals, and gender non-conforming people are important as this report also highlights. Other studies show that an intersectional framework allows analysis of how multiple forms of discrimination—based on race, gender, sexuality, disability, migration status, and class—compound vulnerability to GBV and create barriers to justice. In this report, this is presented in the ways structural inequalities, socio-economic marginalisation, and corruption have undermined the accessibility and efficacy of the justice system. Participants in this study reflected this in the ways financial security influences decisions to report or not to. The ways in which police attitudes towards LGBTQIA+ individuals and women become barriers to justice and sometimes lead to further violence.

South Africa's progressive legal framework, which includes gender-neutral and expansive definitions of GBV, has not translated into effective protection or justice for many survivors. As the discussion above highlights, interactions with the police when survivors pursue justice *kukuzilimaza*. As such, survivors choose to focus on healing as the justice they pursue. This highlights the need for a shift towards recognising multiple pathways to justice, including those found in customary law and community-based responses. South Africa has a plural legal system, which includes both statutory and customary law. There are some overlaps in the above conceptualisations of justice, for example the community-based justice may be through pursuing traditional justice or it may be through the criminal justice system. In other contexts, the community-based justice was conceptualised as revenge where family members avenge the harm done to their kin in different ways. Community based justice may therefore at times fall outside the remit of the law. The above discussions have shown challenges in accessing justice from both legal systems.

Literature warns against dismissing customary law, noting that while it can be patriarchal or distorted by colonial legacies, it also remains a relevant justice mechanism for many communities. Engagement with traditional leaders and culturally embedded values such as Ubuntu may provide opportunities for more community-rooted responses to GBVF, especially where survivors face stigma for accessing state justice systems. The criminal justice system appears as one of many approaches to securing justice for survivors of GBVF in the above conceptualisations. This may mean that if a survivor chooses not to report a case to the police, but to pursue a different avenue to justice it is in order to protect their interests in the process. This is significant when considering that survivors may at times experience more harm in the process of pursuing justice as the above discussions have outlined in several cases. Customary law approaches have emerged in the traditional conceptualisations of justice as an approach that challenges the survivor's priorities similar to the criminal justice

system.

Survivors' own understandings of justice often go beyond formal legal outcomes. They include being believed, experiencing dignity, achieving healing, receiving protection from future harm, and regaining agency. Qualitative, participatory, and intersectional informed research approaches allow survivors and communities to shape understandings of justice and influence policy. Based on the findings of this research, survivors conceptualise justice in multiple ways and will take steps to pursue these different forms of justice. This may include reporting to traditional leaders or the police. The justice mechanism pursued may be influenced by the challenges they have experienced. The above discussion has shown the challenges with both customary and statutory law. As such, it is important to engage with it critically. In reference to customary law, Madonsela argues that it must be treated like any other law, arguing that it is critical to identify where it is good, where it is problematic and, importantly, where it has been corrupted by colonialism and negatively impacts women.⁴⁸

This report has illuminated the complex, multifaceted understandings of justice held by people directly affected by gender-based violence and femicide (GBVF) in Masibambisane communities. Drawing from the lived experiences of survivors and local organisations, the findings underscore that justice is not a singular concept anchored solely in the criminal justice system, but rather a dynamic and expansive idea that encompasses emotional healing, safety, dignity, socio-economic empowerment, community restoration, and cultural integrity. While South Africa has a robust legal framework and a comprehensive National Strategic Plan on GBVF, survivors' testimonies point to persistent systemic failures—especially within the criminal justice system—marked by inaccessibility, corruption, stigma, and secondary victimisation.

Importantly, the report demonstrates that survivors often navigate plural justice systems, including customary, religious, and community-based pathways, and make strategic decisions that reflect their socio-cultural contexts, vulnerabilities, and priorities. A decolonial and intersectional approach to GBVF justice reveals that power, identity, and inequality are inextricably linked to how justice is defined and pursued. Therefore, any meaningful intervention must centre survivors' voices, promote holistic and survivor-led approaches, and address structural drivers such as patriarchy, poverty, and institutional distrust. Justice must be made tangible—not only through punishment of perpetrators—but through the creation of safe, inclusive, and supportive environments that restore survivors' agency and enable collective healing and transformation.

⁴⁸ Lindeque, 'Thuli Madonsela - The Pursuit of Social Justice in South Africa!'

Recommendations

Some recommendations based on this report are as follows:

The FHR's Support to partners should continue in the following ways:

1. To prioritise models of justice that are driven by survivors' goals interests and priorities and centre the healing, safety, dignity and empowerment of survivors—beyond only criminal justice outcomes.
2. To expand psychosocial support services and ensure they are accessible, affordable, and culturally relevant across Masibambisane communities.
3. To create safe spaces for survivors to share, heal, and build solidarity—particularly for women, LGBTQIA+ persons, and youth.

FHR together with the Masibambisane Parther to Design projects that:

4. Include collaboration with traditional leaders to explore how customary law can support rather than silence survivors, particularly women and LGBTQIA+ persons.
5. Promote critical dialogue in communities to address harmful cultural norms that prevent justice (e.g., family honour, silence, and elder dominance).
6. Provide support for community-led justice forums that uphold survivor rights, including faith-based and youth-led initiatives.
7. Support partner organisations to develop economic empowerment programmes for survivors (e.g., skills development, entrepreneurship, social grants access).
8. Engage the police, courts, healthcare workers, and social service workers to share the research findings and the ways in which survivors articulated that they experienced harm and neglect within the legal, health, and social services systems, and to collectively develop strategies to ensure against the perpetuation of these harms and to implement more survivor centred approaches at the local level.
9. Advocate for GBVF responses that link survivors to livelihood support

Research Capacity Development

10. FHR to continue building internal staff capacity for rigorous collaborative qualitative research, while balancing operational responsibilities to ensure methodological integrity and survivor safety.
11. Increase community ownership by involving survivors and partner organisations in research design, data analysis, and dissemination.

Annex 1 Masibambisane Partners

1. Bojanala Legal Advice Centre

Location: North West (Rural)

Work They Do: Free legal assistance (domestic violence, child rights, family law, labour disputes), social welfare programs (substance abuse, HIV/AIDS), human rights education

Clients They Serve: Marginalized rural communities (women, children, elderly), GBV survivors, LGBTQIA+ individuals, undocumented migrants

2. Doxa Youth Programs (Doxa Family Care)

Location: Eastern Cape (Township)

Work They Do: GBV shelters, entrepreneurial skills programs (baking, sewing), gender equality advocacy, youth mentorship

Clients They Serve: GBV survivors (including male victims), families, youth

3. Ethembeni (Place of Hope) Community Centre

Location: Northern Cape (Peri-urban)

Work They Do: GBV shelter services, court support, community empowerment programs

Clients They Serve: GBV survivors, rural communities, youth

4. Families South Africa: Pietermaritzburg (FAMSA PMB)

Location: KwaZulu-Natal (Rural)

Work They Do: GBV counselling and support services, family strengthening programs, training for community stakeholders

Clients They Serve: Families, GBV survivors, children, men seeking help

5. Get Informed Youth Development Centre (GIYDC)

Location: Gauteng (Peri-urban)

Work They Do: GBV prevention (SASA intervention), skills development, psychosocial support

Clients They Serve: Youth, women, children, GBV survivors

6. Ingomuso Lethu Centre (ILC)

Location: Mpumalanga (No data)

Work They Do: GBV awareness, women's empowerment programs, paralegal support

Clients They Serve: Women, GBV survivors, youth

7. Katekani Community Development Agency (KCDA)

Location: Limpopo (Rural)

Work They Do: GBV awareness campaigns, women's empowerment, community mobilization

Clients They Serve: Rural women, children, GBV survivors

8. Youthzone Sustainable Enterprise Development

Location: Limpopo (Rural)

Work They Do: Youth and women empowerment (job preparedness, career guidance), GBV awareness campaigns

Clients They Serve: Unemployed youth, GBV survivors, rural communities

9. Potters House for Women (PHW)

Location: Mpumalanga (Rural)

Work They Do: GBV support (shelters, psychosocial services, court support), skills workshops, school uniform donations

Clients They Serve: GBV survivors, orphaned/vulnerable children, rural women

10. Free State Network on Violence Against Women (FSNVAW)

Location: Free State (Peri-urban)

Work They Do: GBV prevention (awareness, training, advocacy), psychosocial support

Clients They Serve: Women, children, LGBTQIA+ individuals

11. Letlhabile Network Community Advice Office

Location: North West (Peri-urban)
Work They Do: Paralegal services, GBV help desk, shelter for survivors
Clients They Serve: GBV survivors, undocumented migrants

12. Hope for Africa Foundation

Location: Gauteng (Peri-urban)
Work They Do: Child welfare programs, GBV prevention, youth empowerment, Human Rights School Clubs
Clients They Serve: Children, youth, GBV survivors

13. Shaine Grique Advice and Development Centre

Location: Free State (Urban)
Work They Do: GBV/LGBTIQA+ support (counselling, legal aid, shelter), food security programs
Clients They Serve: LGBTIQA+ individuals, GBV survivors, homeless persons

14. Resoketswe Lebjane Foundation

Location: Mpumalanga (Rural)
Work They Do: GBV prevention, paralegal services, Sisterhood Advocate project
Clients They Serve: Rural women, GBV survivors

15. Seed Foundation South Africa

Location: Free State (Rural)
Work They Do: Youth skills development, GBV prevention, literacy programs
Clients They Serve: Youth, unemployed graduates

16. Callas Foundation

Location: Western Cape (Urban)
Work They Do: GBV court support, community kitchen (daily meals), youth engagement programs
Clients They Serve: Women, children, food-insecure families

17. Ubuntu Rural Women and Youth Movement

Location: Western Cape (Rural)
Work They Do: GBV prevention, paralegal services for farmworkers, advocacy for women's rights
Clients They Serve: Rural women, farmworkers, fisher communities

18. uMngeni Unemployed Graduates Forum (MUGF)

Location: KwaZulu-Natal (Township)
Work They Do: Youth empowerment, GBV awareness, skills development
Clients They Serve: Unemployed graduates, youth

19. Mpophomeni Gender and Paralegal Office (MGPO)

Location: KwaZulu-Natal (Rural)
Work They Do: GBV legal support, community dialogues, perpetrator rehabilitation
Clients They Serve: Women, children, GBV survivors

20. Jersey Farm Advice & Information Centre

Location: Eastern Cape (Rural)
Work They Do: Paralegal services, GBV prevention, human rights education
Clients They Serve: Rural communities, GBV survivors, youth

21. Centre for Farmworkers and Rural Development

Location: Limpopo (Rural)
Work They Do: Farmworker rights advocacy, GBV support, legal aid
Clients They Serve: Farmworkers, rural women

22. Sakhingomso Indwe Community Group

Location: Eastern Cape (Rural)
Work They Do: GBV mentorship hub, HIV/AIDS support, youth education
Clients They Serve: Children, GBV survivors, people living with HIV/AIDS



Annex 2 Literature Review

A decolonial approach to justice for gender based violence

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Introduction

South Africa has been termed the “rape capital” of the world, this despite it having a model legal framework that recognises equality of all resident in it. The incongruity between the legal framework and lived reality is cause for some of the following questions. What more is required for the legal system to be effective? Are we making the correct assumption that the legal justice system can be effective in dealing with gender-based violence (GBV) in South Africa? What other forms of justice are survivors and their families pursuing in different South African contexts - rural, urban or peri-urban - outside of and /or alongside the legal system?? How are experiences of GBV and the pursuit of justice differentiated by gender and sexual orientation? How have people navigated the aftermath of GBV and have they found justice or healing? These questions guide this exploration into identifying concepts that may be useful in understanding what is justice for GBV in South Africa.

The Foundation for Human Rights (FHR) has conducted two community surveys to explore GBV and accessing justice in different communities included in the Masibambisane project. The surveys explored GBV in five categories as follows: physical violence, sexual violence, psychological violence, economic violence and femicide. According to the survey results, economic GBV was the most prevalent. In terms of justice, the survey focused on pursuit of justice through the legal system and looked at reporting to the police, which did not always happen. The reasons for not reporting violence to the police included that people did not think they needed assistance or did not need assistance. The survey provides valuable insight into the communities’ context in relation to GBV. However, a key limitation was that the questions foreclosed what qualifies as GBV and did not give room to the respondents to present localised understandings of events they may classify as GBV. Furthermore, the surveys focused on those identifying as women and gender non-conforming members of the community. This is understandable, as these groups tend to be most affected by GBV. However as an exploration of the context, it would be important to get a picture that shows how all members of the communities experience GBV, including men and boys.

A Qualitative Research Approach

The qualitative research approach in the third phase of this research aims to respond to the

limitations of the surveys that were conducted. Qualitative research provides is an in-depth understanding of the situation in each location. The results cannot be **generalised** to a wider population or context however they provide a better **conceptual framework** for future survey questions.

Definition of terms

- 1. In qualitative research the participants or respondents can be **purposively chosen**, that is a person is asked to participate in the research because they have the experience the research is investigating.*
- 2. As a result, the information that is generated in qualitative research **cannot be generalised**, which means that it cannot be applied to a different context. It is however useful in helping us ask questions in other contexts*
- 3. A **Conceptual Framework** defines the scope of questions in a study, for example where justice is conceptualised as accessed through the legal justice system, the research will ask questions about reporting to the police. A different conceptual framework can be that justice is found in the traditional leadership and so the research would ask about reporting to traditional leadership*

Qualitative research asks open ended questions to find out what is happening in a specific context and how people make meaning of events. An organisation may view GBV justice as the perpetrator being arrested and sentenced. However, when in qualitative research open ended questions are asked, findings may be that people think getting the perpetrator to pay a fine is justice. It is important to note here that allowing people to express their views about what they think is justice is not an endorsement of the view, especially where communities may have harmful notions of what constitutes justice. An example of this would be if a community views ukuthwala⁴⁹ - traditionally seen as a form of marriage in some areas - as a good practice even where it involves minors. However studies have shown that it disadvantages women as they tend to not be able to finish schooling and therefore end up in a lower socio-economic position which makes them vulnerable to GBV. It is important in qualitative research to uncover these problematic views so that more effective programming to shift these views can be initiated. Using a qualitative approach to research is one way to

⁴⁹ Ukuthwala is a cultural practice where a woman is abducted with the aim of marrying her under customary law. In some cases the abduction may be known and consented to by the woman, at other times she does not

explore the different contexts in which Masibambisane organisations operate and has potential to uncover the differences some of which may be subtle, of how GBV justice is pursued and understood in the Masibambisane communities.

This paper presents a review of literature in the form of research articles, research reports and NGO reports to explore justice for gender based violence in South Africa. The report presents a decolonial approach to justice for GBV and after a brief overview of the South African context. The next section discusses decolonising approaches to justice for GBV grounded in epistemic decolonisation, which aims for the inclusion of different approaches to knowledge. This is followed by a discussion of the ways in which GBV is theorised, calling for a more expansive understanding of GBV that includes, but extends beyond violence against women, as well as for an intersectional approach. This leads to a discussion of the ways GBV is experienced by LGBTQIA+ and gender non-conforming individuals. This is followed by a presentation of a summary of the South African legal framework pertaining to GBV, as well as customary law and how it has been used in GBV cases. Then there are two more sections, the first presenting the ways in which justice has been theorised and a concluding section exploring healing after GBV.

Background

FHR works in South Africa, a context with a complex history of colonialism as well as apartheid. Since 1994, with the advent of democracy, there have been many gains towards redressing the inherited chaos from the country's complex history⁵⁰. At the same time, many challenges remain for the majority who continue to live at the margins⁵¹ [add reference]. South Africa is one of the most unequal societies in the world, and wealth continues to be distributed largely along racial lines⁵², with the majority black population continuing to bear the brunt of poverty and poor service delivery from the government⁵³. Furthermore, black women suffer the most from the impact of poverty⁵⁴. Corruption features as a big hurdle to the

know

⁵⁰ Ingrid Palmay, *Gender, Sexuality and Migration in South Africa: Governing Morality* (Springer, 2017).

⁵¹ S Moshood, 'Bridging the Divide: Addressing Socio-Economic Inequality in Post-Apartheid South Africa within the Framework of Millennium Development Goals (2000-2015).', *Journal of International Studies* 20, no. 1 (2024): 201–31, <https://doi.org/10.32890/jis2024.20.1.8>.

⁵² World Bank, *Inequality in Southern Africa* (Washington, DC, 2022), <https://doi.org/10.1596/37283>.

⁵³ Remigius Chidozie Nnadozie, '4. Access to Basic Services in Post-Apartheid South Africa: What Has Changed? Measuring on a Relative Basis', n.d.

⁵⁴ Kgomotlokoa Thaba-Nkadimene, Wilfred Molotja, and Thinavhudzulo Mafumo, 'The Scourge of Poverty

country's progress and dominates the headlines regularly, leading to a distrust in public institutions⁵⁵. It is against this backdrop that this literature review exploring justice for gender-based violence is being written.

Gender-based violence is a major challenge in South African communities. There are jarring headlines in the news of femicide, rape and human trafficking which tend to only focus on the public and easily sensationalised cases while the daily occurrences of violence are far too many to report or focus on in a sustained way in the news. It is easy to focus on these cases of objective violence occurrences without a critical engagement with South Africa's history and socio-economic context and how it has contributed to the present. As such this literature review will engage with the issue of gender-based violence in South Africa, delving beneath the objective numbers and jarring cases that are visible in the media, that have confirmed to many that South Africa is the rape capital of the world, in order to explore the ways GBV has been conceptualised and how this can inform interventions. The literature review follows a critical decolonial feminist approach, that is a "project of peeling back the symptom, to understand what came before and how we might organize ourselves otherwise going forward."⁵⁶ Here the symptom is the GBV that is visible and can be easily recognised and defined. The next section explores further how this research can be decolonial.

Decolonising Approaches to Justice for Gender-based Violence

"To decolonize is to dig deep into our histories and see how colonialism has distorted, how we see and engage with the world. Decoloniality is the process of untangling the knots that suffocate us and make it difficult for us to breathe, it is to release the shackles that bind us to coloniality. To do this, we need to look back and confront colonial legacies and their dark forces because colonization has made us strangers to ourselves."⁵⁷

among South African Rural Women : In Defence of Social Justice', *Journal of Gender, Information and Development in Africa* 8 (15 December 2019): 69–89, <https://doi.org/10.31920/2050-4284/2019/8n3a4>.

⁵⁵ Preston Govindasamy, 'Citizens' Perceptions of Trust and Corruption in Government Institutions in South Africa', *Institute for Justice and Reconciliation Policy Brief*, no. 46 (2024): 1–9, https://www.ijr.org.za/home/wp-content/uploads/2024/11/800985_A_IJR-PB-Trust-and-Corruption-02.pdf.

⁵⁶ Puleng Segalo and Michelle Fine, 'Under Lying Conditions of Gender-based Violence—Decolonial Feminism Meets Epistemic Ignorance: Critical Transnational Conversations', *Social and Personality Psychology Compass* 14, no. 10 (October 2020): 5, <https://doi.org/10.1111/spc3.12568>.

⁵⁷ Segalo and Fine, 5.

Decolonialism is aimed at reversing the harms of colonialism and restoring humanity to previously colonised groups. This is because colonisation was a process that categorised other ways of being in the world as primitive in comparison to colonial systems, which were considered the modern higher value way of life⁵⁸. To pursue a decolonial approach, Maponya argues it is important to engage the following questions: Why should we decolonise? What should we decolonise? And lastly, How should we decolonise?⁵⁹ Numerous scholars and activists have long argued for why decolonisation is required by outlining the injustices of colonisation, including historical accounts of the harms and dispossession. Decolonising is about creating a world where different ways of being are valued, so those cultures that are considered primitive are put on the same level as modernity. To answer the question of how we should decolonise, we have to resist the current hierarchical world that colonialism built and create a different one⁶⁰. We have to create new spaces, networks and ways of knowing that go beyond what we inherited from colonialism⁶¹. This is an intentional practice of resistance as well as undoing unjust practices, assumptions and institutions, and pushing for thinking outside the framings that we have inherited from colonialism⁶². This process of decolonising cannot be only in the doing and writing of research, but must have practical changes to the world, where decolonising teaches a different way of being in the world⁶³.

To help us further in thinking about what to decolonise, there are four different categories of decolonising that are useful to think about:

1. **Political Decolonisation**, which is focused on the political structures of governments. Many previously colonised territories are no longer politically colonised, however this does not mean colonialism has ended.
2. **Socio-economic decolonisation**, which is aimed at issues of development and economic

⁵⁸ Juan Ricardo Aparicio and Mario Blaser, 'The "Lettered City" and the Insurrection of Subjugated Knowledges in Latin America', *Anthropological Quarterly* 81, no. 1 (2008): 59–94, <https://muse.jhu.edu/pub/35/article/235054>.

⁵⁹ Dimpho Takane Maponya, 'How Should We Decolonise? A Pragmatist African Feminist Standpoint Proposal' (PhD Thesis, Johannesburg, University of Johannesburg, 2023), <https://ujcontent.uj.ac.za/esploro/outputs/doctoral/How-should-we-decolonise-A-pragmatist/9938906107691>.

⁶⁰ Shose Kessi, Zoe Marks, and Elelwani Ramugondo, 'Decolonizing African Studies', *Critical African Studies* 12, no. 3 (2020): 271–82, <https://doi.org/10.1080/21681392.2020.1813413>; Aparicio and Blaser, 'The "Lettered City" and the Insurrection of Subjugated Knowledges in Latin America'.

⁶¹ Kessi, Marks, and Ramugondo, 'Decolonizing African Studies'.

⁶² Ngũgĩ Wa Thiong'o, 'Decolonising the Mind', in *Literary Theory: An Anthology*, ed. Julie Rivkin and Ryan, Michael, 2nd ed. (Oxford: Blackwell Publishing, 2004), 1126–50, https://www.humanities.uci.edu/sites/default/files/document/Wellek_Readings_Ngugi_Quest_for_Relevance.pdf.

freedom. Colonial economic structures disfavoured African people and continue to operate in this way.

3. **Cultural decolonisation** is concerned with the value that is placed on African people's cultures, which colonialism undermined and devalued and in some cases succeeded in annihilating.
4. **Epistemic decolonisation**, which is the process of reclaiming the value and knowledge systems that have been marginalised or suppressed by colonial systems. This describes what Maldonado Torres⁶⁴ has called coloniality. Coloniality is the ways of thinking that keep the power structures of colonialism alive after colonialism has ended.⁶⁵

Colonialism affected every dimension of the lives of the colonised, so these distinct categories of approaching decolonisation may overlap. However they are useful here as we think about the approach to decolonising in the FHR qualitative research exploring justice for gender-based violence. In this research, the fourth category of decolonising – epistemic decolonisation - is particularly useful.. This is a focus on the knowledge and value systems that are marginalised by coloniality. For example, the sources used for this literature review include academic papers and books, organisation reports and students' MA and PhD research reports. These sources of literature are included without any hierarchy of value as a way decolonising how we value different knowledge sources. Furthermore, decolonising needs to move from engaging with debates to shifting lived experiences to mitigate against the impact of coloniality

“In South Africa, until the epistemic harm of colonialism and apartheid are afforded careful recognition and attention—as in focusing on the lived experiences, realities, and stories of individuals—the hard work of delegitimizing coloniality, and its implicit structures of hegemonies and binaries cannot unfold.”⁶⁶

Epistemic decolonisation, which is aimed at making different knowledge practices equal, is

⁶³ Aparicio and Blaser, 'The "Lettered City" and the Insurrection of Subjugated Knowledges in Latin America'.

⁶⁴ Nelson Maldonado-Torres, 'Decoloniality at Large: Towards a Trans-Americas and Global Transmodern Paradigm (Introduction to Second Special Issue of "Thinking through the Decolonial Turn")', *Transmodernity: Journal of Peripheral Cultural Production of the Luso-Hispanic World* 1, no. 3 (2012).

⁶⁵ Maponya, 'How Should We Decolonise?'

⁶⁶ Nuraan Davids, 'Decolonization in South African Universities: Storytelling as Subversion and Reclamation', *Journal of Philosophy of Education* 58, no. 2–3 (29 July 2024): 189–208, <https://doi.org/10.1093/jopedu/qhae029>.

significant here because according to Maponya⁶⁷, it is decolonising from a feminist standpoint as it is sensitive to the different complexities that African people face. The quote above says this can be done when we pay attention to the lived experiences, realities and stories of individuals. For example, a report by the HSRC⁶⁸ aligns with African feminist calls for holistic, community-rooted responses. However the report's continued reliance on international frameworks like WHO's *RESPECT* signals a persistent epistemic dependence on Western paradigms. A truly decolonial strategy must go beyond inclusion and aim to centre African feminist epistemologies in knowledge production and policy⁶⁹. African feminist epistemology is based on African women's voices, experiences, and knowledge in decolonizing knowledge and building a more just and equitable society in Africa⁷⁰. Ultimately, the goal should not only be removing the influence of colonialism but also all forms of oppression that came as a result⁷¹. We should decolonise what has been destroyed by colonialism, including the humanity, the cultures, languages, knowledges, and identities of African people⁷².

Below is an example of epistemic decolonisation when focusing on justice for GBV in the ways in which programming on gender issues is funded and the concepts that drive these programs. In South Africa and in many other developing contexts, non-governmental organisations are at the forefront of this community work intervening in GBV. Governments have limited resources to fund NGOs which has led to dependency on international donors, as found in many other developing countries. This dependency on donor funding runs a risk of maintaining the unequal relations between the global north and the global south. "While Southern NGOs could bring to the table, important resources for programs 'such as local knowledge, grassroots linkages, implementation capacity and cultural understanding', these qualities may not have as much influence on programming in comparison to the financial

⁶⁷ Maponya, 'How Should We Decolonise?'

⁶⁸ 'The First South African National Gender-Based Violence Study, 2022: A Baseline Survey on Victimisation and Perpetration', accessed 12 June 2025, <https://repository.hsrb.ac.za/handle/20.500.11910/23810>.

⁶⁹ Sylvia Tamale, *Decolonization and Afro-Feminism* (Daraja Press, 2020), <http://dspace.mak.ac.ug/handle/10570/10736>.

⁷⁰ Rudo B. Gaidzanwa, 'African Feminism', Retrieved On 16 (2013), http://www.osisa.org/sites/default/files/sup_files/Africa%20Feminism%20-%20Rudo%20Gaidzanwa.pdf.

⁷¹ Dimpho Takane Maponya, 'How Should We Decolonise? A Pragmatist African Feminist Standpoint Proposal' (PhD Thesis, Johannesburg, University of Johannesburg, 2023), <https://ujcontent.uj.ac.za/esploro/outputs/doctoral/How-should-we-decolonise-A-pragmatist/9938906107691>.

⁷² Maponya, 'How Should We Decolonise?'

power and positionality of Northern donor organisations”⁷³. This may result in local knowledges carrying less weight in contrast to donor concerns. For example donors may require reporting on the tangible quantifiable results of the donor-funded project, which can create a disconnect from the local context and local concerns. Some organisations report that activities involved in working with NGOs, such as providing reports, monitoring and evaluations, can disrupt feminist principles of non-hierarchy, but NGOs need the international funding and so may be forced to structure themselves according to NGO frameworks that may be patriarchal⁷⁴. Other NGOs report that donor relations have disrupted their initial visions and goals for justice, healing and support for those affected by gender-based violence as these goals are shifted to align with funding agendas⁷⁵. A decolonial engagement requires careful consideration of the ways in which agreements are structured and giving power to local partners to shape them in a way that represents their concerns.

Following a decolonial approach, FHR worked together with the Masibambisane partners to draft the research instruments for the focus group discussions and key informant interviews. FHR and the Masibambisane partners engaged in a process of cocreating the research instruments. The participation of the partners in designing the informed consent forms, focus group interview schedules, and sampling strategies ensured that they were culturally relevant and appropriate. In this way, the research instruments were sensitive to local knowledge and values. As the above discussion on decolonising has shown, epistemic coloniality leads to the sidelining of local knowledge and values. In the training workshops held with partners for example, some of the feedback from the partners was that in the previous surveys there were questions about sexual histories that were deemed inappropriate to ask older members of the community. The organisation representatives expressed appreciation for the decolonising participatory format in which qualitative research instruments were designed. In this way the partners also had power to influence the focus of the qualitative study.

Conceptualising Gender Based Violence

Gender based violence is a global concern and has been defined in several different policy documents including by organisations such as the United Nations, African Union and the World Health Organisation. The definitions by these inter-governmental institutions are important because they guide the ways in which governments define and regulate GBV at a national level. For example South Africa is signatory to United Nations Convention for the

⁷³ Paula Vermuë, “‘We have nothing to celebrate!’: Fighting gender-based violence in Cape Town, South Africa”, *Tijdschrift voor Genderstudies* 24, no. 3/4 (1 December 2021): 243–59, <https://doi.org/10.5117/TVGN.2021.3/4.002.VERM>.

⁷⁴ Paula Vermuë, “‘We have nothing to celebrate!’: Fighting gender-based violence in Cape Town, South Africa”, *Tijdschrift voor Genderstudies* 24, no. 3/4 (1 December 2021): 243–59, <https://doi.org/10.5117/TVGN.2021.3/4.002.VERM>.

⁷⁵ Vermuë.

Elimination of All Forms of Discrimination Against Women (CEDAW), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003) and the SADC Declaration on Gender and Development. According to the CSVr, gender based violence (GBV) is:

“a general term used to capture violence that occurs as a result of the normative role expectations associated with each gender, as well as the unequal power relationships between the genders within the context of a specific society”⁷⁶

This definition places GBV within the context of power and the ways in which unequal access to power makes people vulnerable to GBV. Significantly, this definition speaks of power relationships within a specific societal context. This means that power relationships may be different in different contexts. In research, therefore, it is important to explore how power is configured in each context and not make assumptions based on previous knowledge or theories. In this definition any individual can be a victim, GBV is not limited to violence experienced by women and perpetrated by men as also argued by Graaf⁷⁷.

However as the CSVr report continues, its focus is limited to GBV as it is experienced by women and with men as the perpetrators. This focus is justified by the higher numbers of women that tend to be victims of GBV and furthermore the impact of GBV is greater on women as a result of their socio-economic status, which affects women's ability to recover from GBV⁷⁸. This focus on GBV that is limited to violence against women (VAW) is important. Men tend to be perpetrators of most of the violence that occurs and not just GBV, however research has also shown that this focus on VAW may lead to certain groups that are affected by GBV being overlooked⁷⁹

The limited focus on GBV as VAW runs the risk of overlooking the violence that gender non-

⁷⁶ CSVr, 'Gender Based Violence in South Africa - A Brief Review.' (Centre for the Study of Violence and Reconciliation, 2016), <https://www.csvr.org.za/pdf/Gender%20Based%20Violence%20in%20South%20Africa%20-%20A%20Brief%20Review.pdf>.

⁷⁷ Karen Graaff, 'The Implications of a Narrow Understanding of Gender-Based Violence', *Feminist Encounters: A Journal of Critical Studies in Culture and Politics* 5, no. 1 (5 March 2021): 12, <https://doi.org/10.20897/femenc/9749>.

⁷⁸ CSVr, 'Gender Based Violence in South Africa - A Brief Review.'

⁷⁹ Siyanda B. Shabalala, Floretta Boonzaier, and Skye Chirape, 'Challenging Ciscentric Feminist Margins: A South African Study on Gender-Based Violence in the Lives of Black Trans Women', *Psychology in Society*, no. 65 (2023): 50–80, https://www.scielo.org.za/scielo.php?pid=S1015-60462023000100005&script=sci_arttext; Graaff, 'The Implications of a Narrow Understanding of Gender-Based Violence'.

conforming groups and LGBTQIA+ as well as men are also affected by GBV⁸⁰. This inclusion of men as victims of GBV is uncomfortable territory as earlier stated that women tend to bear the brunt of GBV. However responding to GBV in the limited scope of VAW runs the risk of presenting all women as equally vulnerable to GBV when women's social locations such as disability, migration status, race, class, or occupation may increase vulnerability. Disabled women and migrant women as well as women in sex work have been found to have a higher likelihood of experiencing GBV. Sexual orientation is another factor that increases the likelihood of experiencing GBV, for example in the case of homophobic rape where butch presenting lesbian women as well as trans women are targeted with the aim of changing their sexual orientation. Furthermore, as a result of stigma, LGBTQIA+ individuals may not report cases of GBV. In a further section below, this report will discuss research with members of LGBTQIA+ showing how they are in certain instances more vulnerable to GBV, and how responses that focus on VAW leave them behind. The violence that men experience needs to be considered as GBV⁸¹. In as much as men tend to be the perpetrators of GBV, expectations of masculinity usually influence men's engaging in violence as perpetrators as well as the vulnerability of those men who end up targets and victims of violence. The recognition of the violence that men experience as GBV is important in order to be effective in the interventions to stop GBV⁸².

Similarly the *First South African National Gender-Based Violence Study*⁸³ adopts a gender-inclusive definition of GBV, emphasizing that it affects individuals of all genders, including men, women, and LGBTQIA+ individuals. It defines GBV as:

“The general term used to capture violence that occurs as a result of the normative role expectations associated with the gender (and sexuality) associated with the sex assigned to a person at birth, as well as the unequal power relations between the genders, within the context of a specific society”⁸⁴

This definition encompasses physical, sexual, emotional, psychological, and economic abuse and recognizes that such violence occurs in both public and private spaces. The report also acknowledges the role of intersectionality, recognizing how disability, socio-economic status,

⁸⁰ Graaff, 'The Implications of a Narrow Understanding of Gender-Based Violence'.

⁸¹ Graaff.

⁸² Graaff.

⁸³ N. P. Zungu et al., 'The First South African National Gender-Based Violence Study, 2022: A Baseline Survey on Victimisation and Perpetration', 2024, <https://repository.hsra.ac.za/handle/20.500.11910/23810>.

⁸⁴ Zungu et al.

and sexual orientation compound experiences of GBV and barriers to justice. The report's recommendations reflect this inclusive framing. It calls for survivor-centred, gender-affirming, and disability-inclusive services. It also emphasizes community-based interventions that include all survivors regardless of gender identity and promotes tailored mental health and legal support for men and LGBTQIA+ individuals. Notably, the report highlights the need for long-term, culturally appropriate, and intersectionality-informed interventions to dismantle systemic barriers to justice⁸⁵.

An Intersectional Perspective

An intersectional perspective is important and useful for an engagement with GBV that considers all the different ways in which GBV occurs beyond the inclusion of only women. Intersectionality is a theory that was first used to understand black American women's experiences of the world⁸⁶. Intersectionality theory states that black women's experiences of discrimination intersect, that is the gendered experience of being a woman, intersects with racial experience being black, with socioeconomic status, with age etc and the experience at this intersection is not a simple addition of these different social locations. Instead, the multiple intersections compound to create an experience of being a black woman in the world. Beyond the initial theorisation to understand black women's location in the world⁸⁷. Intersectionality has been used to understand the social location of all people broadly and theorists have argued for an analysis of how intersectionality occurs in each context⁸⁸, recognising that race, gender and class are significant factors that influence how people experience the world in different contexts⁸⁹. There are other factors in different contexts that influence how people experience the world and GBV. In South Africa, for example, sex work is illegal and thus is a factor in increasing the vulnerability to GBV of those involved in sex work. In a country where sex work is legalised this will be different. This is similar to sexuality in many African countries where, unlike South Africa, LGBTQIA+ individuals are

⁸⁵ Zungu et al.

⁸⁶ Patricia Hill Collins, *Intersectionality as Critical Social Theory* (Duke University Press, 2019), <https://www.dukeupress.edu/intersectionality-as-critical-social-theory>; Kimberlé Crenshaw, 'K (1991), Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color', *Stanford Law Review* 43 (1989): 1241.

⁸⁷ Jennifer C. Nash, 'Re-Thinking Intersectionality', *Feminist Review* 89, no. 1 (2008): 1–15, <https://doi.org/10.1057/fr.2008.4>.

⁸⁸ Inken Carstensen-Egwuom, 'Connecting Intersectionality and Reflexivity: Methodological Approaches to Social Positionalities', *Erdkunde*, 2014, 265–76.

⁸⁹ Nira Yuval-Davis, 'Intersectionality and Feminist Politics', *European Journal of Women's Studies* 13, no. 3 (2006): 193–209, <https://doi.org/10.1177/1350506806065752>.

rendered more vulnerable to GBV without recourse because their sexuality is not legally recognised. In such a context, members of LGBTQIA+ groups may be even more likely to not report to the police. The other factors in different contexts include: sexual orientation, migration status, age, religious beliefs, employment status etc may be significant in how people are located and experience the world⁹⁰.

It is important for this discussion of GBV to be within an intersectional framing so that other ways in which GBV manifests are not completely invisible. For example in South Africa scholars have argued that patriarchal power is socially reproduced through everyday institutions and cultural norms that normalise violence against women⁹¹. This places the vulnerability to violence that women in South Africa face within the frame of access to power. Women have the least access to power in a patriarchal system, and as a result, are rendered vulnerable to GBV. The arguments have been made in writing that focuses on black women's experiences of GBV in South Africa⁹². The focus on black women in South Africa here is an example of an intersectional lens of viewing the context of South Africa, the ways in which apartheid and colonisation continue influence the status of black women today. Importantly too an intersectional view of GBV shows that black women are not the only group vulnerable to GBV⁹³. This makes an intersectional approach to addressing GBV important in order to respond to the different ways GBV is experienced across gender, age, migration status, disability, class and sexuality.

The FHR qualitative research involves key informant interviews with the Masibambisane partner organisation representatives and focus group discussions with survivors of GBV, families of survivors of GBV. Some of the Masibambisane partners work with male survivors of GBV, other organisations work with members of the LGBTQIA+. The research includes men's experiences of GBV in order to have a response that is more effective as argued by Graaf (2021).

⁹⁰ Daiva Stasiulis, Zaheera Jinnah, and Blair Rutherford, 'Migration, Intersectionality and Social Justice (Guest Editors' Introduction)', *Studies in Social Justice* 14, no. 1 (2020): 1–21, <https://doi.org/10.26522/ssj.v2020i14.2445>.

⁹¹ Pumla Dineo Gqola, 'Rape: A South African Nightmare', 2015, <https://m.africabib.org/rec.php?RID=397753535&DB=w>.

⁹² Gqola.

Justice for Gender Based Violence for LGBTQIA+

African feminists have argued that gender in the African context does not necessarily coincide with sexuality or biology, in the sense that, for example, there can be female husbands⁹⁴. This means that sexuality may not necessarily coincide with gender identity. This is important when considering GBV from an intersectional perspective, where vulnerability to GBV is a result of how an individual is located at the intersections of gender, race, sexual orientation, socioeconomic status, and all the other factors that may be significant in each context. Research in South America has similarly argued that gender is a colonial construct aimed at structuring the world for colonial conquest, with examples of how gender is conceptualised outside of colonial frames⁹⁵. Seeing gender as a colonial construct helps us to see the ways in which gender nonconforming groups become vulnerable because they are challenging the global capitalist systems and not only just bending gender norms at a local level⁹⁶. Further, a decolonial perspective on gender non-conformity is that you may find individuals who do not necessarily identify as queer but are in same sex partnerships. These individuals may not be interested in being identified in any particular way, as seen with the identity politics of the global north led LGBTQIA+ movements⁹⁷. As has been argued that in the African context, sexual minorities exist in silence, and the silence is not a negative thing for them⁹⁸. This, however, does not discount the fact that there are individuals within these contexts who choose to take up LGBTQIA+ politics through claiming recognition and visibility.

Below I discuss an example of an intersectionality informed approach to GBV that centres black trans women. The researchers have call for a centring of black trans women in the fight against gender-based violence⁹⁹. Black trans women are at the intersection of being women, trans, and black. The research included stories of trans women from diverse provinces in

⁹³ Graaff, 'The Implications of a Narrow Understanding of Gender-Based Violence'.

⁹⁴ Tamale, *Decolonization and Afro-Feminism*.

⁹⁵ Maria Lugones, 'The Coloniality of Gender', *Feminisms in Movement* 35 (2016), <https://library.oopen.org/bitstream/handle/20.500.12657/87485/9783839461020.pdf?sequence=1#page=36>.

⁹⁶ Palmary, *Gender, Sexuality and Migration in South Africa*.

⁹⁷ Sylvia Tamale, *Decolonization and Afro-Feminism* (Daraja Press, 2020), <http://dspace.mak.ac.ug/handle/10570/10736>.

⁹⁸ Tamale, *Decolonization and Afro-Feminism*.

⁹⁹ Shabalala, Boonzaier, and Chirape, 'Challenging Ciscentric Feminist Margins'.

South Africa, of different socio economic status and ages, with experiences of GBV from state institutions. In their research, they found that black trans women experience gender-based violence as structural and institutional violence. While research has shown that they have a higher likelihood of being affected by GBV, much of the programming, research and activism leaves black trans women out. This is a form of structural violence that is layered on colonial processes such as “cis-centricity”, which is defined as the tendency for social reality to be perceived from the hegemonic cisgender perspectives. GBV is recognised globally in its expansive definition, that it is violence that affects individuals as a result of their perceived gender. Despite this recognition, responses tend to focus on violence against women¹⁰⁰. However, if we limit GBV programming to VAW, this excludes other groups who are at times facing higher rates of GBV than cisgendered women resulting in calls for a response to the full range of GBV and not just that which falls under VAW¹⁰¹. Importantly the wider definition of GBV includes the violence that LGBTQIA+ individuals face which may be at a higher rate to cis-heterosexual women as the case study below show.

Black transwomen’s stories show how they are excluded and invisible for example at school, not being allowed to wear a female’s uniform, while at the same time they are hyper visible in social spaces for example having unwelcome social attention as they are perceived as ‘other’ in a cis-normative social order. This is similar to what Dlamini¹⁰² says in the context of the church that experiences of GBV are silenced because the church tends to be a heteronormative space. Many of the trans women’s stories reflected on being objectified and sexualised as a form of gender disciplining for example where they would be asked to perform sexual acts as proof or to be ‘corrected’ and being sexually violated in many of these incidences. Shabalala et al¹⁰³ further reflected on the violence of the South African bureaucratic processes when trans women want to change the gender markers in identity documents or for example the requirement that to access gender affirming surgery a medical report that confirms gender dysphoria should be presented. Lastly the economic status of black transwomen was shown to be a protective marker against mistreatment from families where economically productive black trans women who were financially supporting their families were protected from abuse unlike the economically unable. This also intersected with location, those based in rural areas face further barriers to accessing medical care which,

¹⁰⁰ Graaff, ‘The Implications of a Narrow Understanding of Gender-Based Violence’.

¹⁰¹ Graaff.

¹⁰² Shabalala, Boonzaier, and Chirape, ‘Challenging Ciscentric Feminist Margins’.

as already said, is required to access the state provisioned gender marker and name changes or gender affirming surgery. This means then that trans women in rural areas and who cannot access health services are further excluded. The context of GBV for black trans women in South Africa as discussed above shows the significance of an intersectional approach to GBV. Not all black trans women experience GBV the same way. In the above example, location in a rural or urban area is significant as well as the economic status and ability to financially support family. However while the definition of GBV has been expansive and South Africa has good legislation. Much of the activism around GBV has been cis-centric which has been shown is ineffective in eliminating GBV. It leaves LGBTQIA+ individuals marginal and thus communities will not be liberated from violence¹⁰⁴.

Lastly in concluding this discussion of the ways in which GBV has been conceptualised is a brief analysis of the report *Towards a Gender-Based Violence Index for South Africa*¹⁰⁵ aimed at improving monitoring and accountability. The report offers a technical roadmap for quantifying GBV through a composite index. It recognises the structural and intersectional nature of GBV, and adopts an inclusive definition that encompasses cis and trans women, men, and LGBTQIA+ persons. However, the report follows quantitative technocratic approaches which lack indigenous African justice concepts such as for example input from grassroots feminists or survivor testimonies. The index does not meet the requirements of decolonial feminism, which call for restructuring knowledge systems and the inclusion of African justice paradigms such as Ubuntu¹⁰⁶. An African feminist reimagining of the index would centre survivor voices, incorporate qualitative data, and embed indigenous feminist epistemologies that prioritise healing, community accountability, and justice beyond the courtroom¹⁰⁷. The above discussion on trans women's experiences of GBV is paradoxical as the following brief overview of South Africa's legal framework will reveal.

The FHR qualitative research included LGBTQIA+ individuals in the focus group discussions and interviews. Furthermore, the open ended questions about experiences of GBV and access to justice are expected to generate further information about the diverse experiences that members of the Masibambisane communities including those of LGBTQIA+ groups have. This is a perspective that is informed by intersectional theory, in that the research aims to understand what factors, i.e. is it sexuality, gender, migration status, social status, economic standing, age, religion, race etc, in the different Masibambisane contexts are significant and influence access to justice the communities.

Mama, 'Decolonization and Afro-Feminism'.

¹⁰⁷ Amina Mama, 'Challenging Subjects: Gender and Power in African Contexts', *African Sociological Review/Revue Africaine de Sociologie* 5, no. 2 (2001): 63–73, <https://www.ajol.info/index.php/asr/article/view/23191/19882>; Amanda Gouws, 'Feminism in South Africa Today: Have We Lost the Praxis?', *Agenda* 24, no. 83 (1 January 2010): 13–23, <https://doi.org/10.1080/10130950.2010.9676288>.

South Africa's Legal Framework for GBV

South Africa has a good legal framework for responding to gender-based violence. Importantly, South Africa has a plural legal system, which means that there is more than one system of laws governing South African society. These are the criminal justice system and customary laws. This section first summarises the criminal justice system, focusing on the laws that are relevant to GBV. This is followed by a discussion of customary law. The table below shows a brief summary of relevant legislation:

Act	Purpose	Key Features
Sexual Offences Act 23 of 1957	Early sexual offence law	Defined sexual crimes and is later replaced by modern legislation
Children’s Act 38 of 2005	Protection of children's rights	<ol style="list-style-type: none"> 1. Covers child welfare, adoption, education, and protection 2. Main goal is to protect children from abuse neglect and exploitations. Child anyone under 18 years 3. Forbids child abuse and neglect, child trafficking, child labor and exploitation, sexual abuse or harmful practices
Protection of Harassment Act 17 of 2011	Protection from harassment	<ul style="list-style-type: none"> • Provides protection orders and quick legal relief • Designed to protect people from harassment, gives legal protection and helps people to get a court order to stop harassment. Defines harassment as unwanted behavior causes a person to feel scared threatened or distressed. This includes: <ul style="list-style-type: none"> ▪ <i>Following or watching someone</i> ▪ <i>Sending threatening or abusive messages (including online or by phone)</i> ▪ <i>Spreading harmful lies or private information</i> ▪ <i>Unwanted phone calls, texts, or emails</i> ▪ <i>Damaging a person’s property</i> ▪ <i>Sexual harassment</i> <p>A harassed person can apply to the court for a protection order without a lawyer. The court can order the harasser to stop immediately; the harasser can be arrested and charged. Also covers cyber bullying. The police enforce protections orders.</p>
Maintenance Act 99 of 1998	Enforces maintenance payments	Ensures financial support for dependents, with penalties for non-payment
Prevention and Combating of Trafficking in Persons Act 7 of 2013	Fights human trafficking	Criminalizes trafficking for exploitation, protects victims
Domestic Violence Act 116 of 1998	Protects from domestic violence	Protection orders, emergency relief, and support services
Domestic Violence Amendment Act 14 of 2021	Strengthens DV protections	<ul style="list-style-type: none"> • Expands definitions, mandatory reporting, online protection orders • Protects people from abuse in domestic relationships. Defines domestic violence to include • Physical abuse (hitting, pushing, etc.) • Emotional or psychological abuse (insults, threats, controlling behavior) • Verbal abuse • Sexual abuse • Economic abuse (controlling money or not giving support) • Harassment or stalking • Intimidation

		<ul style="list-style-type: none"> • Damage to property • Entry into a victim's home without permission • Victims can apply for a Protection Order which tells the abuser to stop the abusive behavior, stop contacting the victims can include financial support. Breaking a protection order is a criminal offense. Amendment now includes expanded definition of domestic violence, improved access to protection orders and holding officials accountable. The definition of domestic violence now includes Now includes: <ul style="list-style-type: none"> • Spiritual abuse • Technology-facilitated abuse (e.g. cyberbullying, revenge porn, tracking someone with a phone app) • Controlling or coercive behavior • Exposing children to domestic violence • New reporting duties for the Police, healthcare workers, teachers, and social workers must report suspected abuse, especially if children, elderly, or disabled people are involved. • Victims can apply for a protection order online. Abusers can be ordered to surrender firearms.
Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007	Modernizes definitions and strengthens victim protection Modernizes sexual offence laws	<ul style="list-style-type: none"> • Rape defined broadly (all forms of penetration) • Gender-neutral law • New offences: grooming, compelled acts, exposure • Sex Offenders Register (NRSO) for crimes against children & mentally disabled persons • HIV PEP within 72 hours
Criminal Law (Sexual Offences and Related Matters) Amendment Act 13 of 2021	Expands protection for victims Updates the 2007 Act to improve safety & oversight	<p>Lifetime listing on sex offender registry, mandatory reporting</p> <ul style="list-style-type: none"> • NRSO expanded to include all victims • Mandatory reporting by professionals (e.g. teachers, doctors) • Repeat offenders get lifetime listing • Tighter employment screening for child-related jobs
Criminal and Related Matters Amendment Act 12 of 2021	Strengthens criminal justice system Makes courts & policing stronger in GBV/sexual offence cases	<ul style="list-style-type: none"> • Stricter bail and parole conditions, quicker court procedures • Stricter bail and parole conditions • Prioritizes victim safety • Allows video testimony • Training for police & court staff • Faster handling of GBV cases

National Strategic Plan for Gender Based Violence

In 2020, a National Strategic Plan for GBV was launched to combat GBV and femicide in the country. The NSP has six key pillars:

1. Prevention
2. Strengthening the legal justice system
3. Services for Survivors
4. Building Institutions and Capacity
5. Economic Empowerment
6. Coordination, Monitoring and Evaluation¹⁰⁸

According to the NSP, data on gender-based violence remains a critical concern, as most incidents remain undocumented, underreported and unaccounted for in the national statistics. In addition, while the South African Police Service is a key stakeholder for the generation of data on GBV, there are some challenges. For example, SAPS data is not disaggregated according to gender. The NSP is targeted at the root causes of GBV and is aimed at providing long-term cultural and structural change. It is a comprehensive framework that focuses on the empowerment of women. It provides a roadmap for stakeholders to have coordinated efforts towards preventing GBV, supporting survivors/victims and advancing economic empowerment of women. While the NSP framework focuses on women and children, it recognises that LGBTQIA+ individuals, especially those who are gender nonconforming, transgender or gender diverse, are at risk of GBV. The NSP, therefore, calls for targeted interventions to support LGBTQIA+ survivors of GBV, highlights specific forms of GBV that affect LGBTQIA+ people, and acknowledges hate crimes. Significantly, the NSP calls for the training of service providers to be LGBTQIA+ inclusive and sensitised to the intersectionality of LGBTQIA+ identities, so that LGBTQIA+ survivors are treated with dignity.

Inclusive approaches to GBV tend to become subject to dominant social representations of GBV¹⁰⁹. The NSP also aims to engage with communities in understanding and accepting

¹⁰⁸ Government of South Africa, 'National Strategic Plan on Gender Based Violence and Femicide (GBVF)' (Pretoria, 2020), <https://www.justice.gov.za/vg/gbv/nsp-gbvf-final-doc-04-05.pdf>.

¹⁰⁹ Shabalala, Boonzaier, and Chirape, 'Challenging Ciscentric Feminist Margins'.

diversity, including gender diversity and sexual orientation. However, the NSP discourse centres cisgender women and girls, with less attention given to gender non-conforming groups and members of LGBTQIA+ who are at particular risk of physical and sexual violence. Implementation and effectiveness of response to LGBTQIA+ communities in the NSP needs to be considered. Like other policies and the trend globally, South African policies promote an inclusive definition of GBV, however public discourse continues to define GBV with a focus on cisgender men's violence against cisgender women, leaving LGBTQIA+ and transwomen invisible leading to a failure to address the full range of gendered violence

Customary Law

An important factor of the South African context is customary law. The 1996 constitution of South Africa¹¹⁰ makes South Africa a legal pluralist state, meaning that both statutory law and customary law have legal force. Customary law is derived from social practices that the community accepts as obligatory and is enforced over the following areas: marriage, divorce, succession, children, courts and procedures, traditional leadership, and land tenure¹¹¹. Customary law is complex as it is found in oral traditions, codes, precedents and academic texts and, above all, in the system of living norms that regulate the everyday lives of the great majority of South Africans¹¹². Codified customary law, which was used prior to 1994, includes oppressive customary laws developed by the colonial and apartheid states. Living customary law, on the other hand, is in the system of norms that govern people's everyday lives. It is context-specific, dynamic and evolving, which in itself can be a challenge as it means customary law becomes dependent on who is applying it. This makes it important to separate customary laws from colonial and contemporary distortions. Some practices under customary law may be harmful because they are now distorted. A good example of this is the practice of ukuthwala, which is defined as a culturally legitimated abduction of a woman with the aim of marrying her under customary law. Research has shown that in some instances, it

¹¹⁰ 'The Constitution of the Republic of South Africa, 1996' (1996), <https://www.justice.gov.za/constitution/SACConstitution-web-eng.pdf>.

¹¹¹ Ericka Curran and Elsje Bonthuys, 'Customary Law and Domestic Violence in Rural South African Communities', January 2005, <https://www.csvr.org.za/docs/gender/customarylawnand.pdf>; Elena Moore and Chuma Himonga, 'Living Customary Law and Families in South Africa', in *South African Child Gauge*, ed. K Hall et al. (Cape Town: Cape Town: Children's Institute, 2018), 61–69, https://www.researchgate.net/profile/Katharine-Hall/publication/334169664_South_African_Child_Gauge_2018_Children_Families_and_the_State_Collaboration_and_Contestation/links/5d1b56f992851cf4405cf7e4/South-African-Child-Gauge-2018-Children-Families-and-the-State-Collaboration-and-Contestation.pdf#page=63.

¹¹² Moore and Himonga, 'Living Customary Law and Families in South Africa'.

enables the violation of young girls and is linked to poverty and GBV¹¹³.

In a legal pluralist state, people choose which legal system to regulate their lives at different moments¹¹⁴. While people can choose which legal system to regulate their lives, there are tensions sometimes between the Bill of Rights, and the African legal tradition or customary law¹¹⁵. However, all customary law is subject to the constitution¹¹⁶. This makes it difficult to estimate how many people live according to customary law. It may be that people who live in the former homelands under traditional authority will have some parts of their lives regulated by customary law. More than half a million people are married under customary law¹¹⁷. In some cases, people pursue justice using customary law and later shift to the criminal justice system. For example, a woman sought to dissolve her marriage through customary law channels and later sought maintenance for her children through the courts¹¹⁸. This shift may be explained by the challenges she faced in the dissolution of the marriage, where the mother-in-law did not support her cause, leading her to engage the courts instead of attempting to pursue resolution of her issue in the same way. State courts are perceived to be more powerful than customary courts, and there are some cases that are seen to be appropriate for customary law intervention such as domestic violence and divorce whereas maintenance and compensation are transferred to state courts¹¹⁹. While women seek to resolve domestic violence disputes through the customary courts, this requires critical engagement to understand why women choose this and if it serves their best interests. Reporting to the police is, at times, interpreted by family as being disloyal and bringing outsiders into a family matter, a violation of culturally correct procedures¹²⁰. This creates tensions in a country where domestic violence is of serious concern. It raises questions as to how can customary law be applied in ways that advance justice for survivors of GBV. The following quote is a useful probe in this quest.

“It is important that we eschew assuming the repugnancy or delinquency of customary law and treat it as we would treat any other law. This means

¹¹³ CSV, ‘Gender Based Violence in South Africa - A Brief Review.’

¹¹⁴ Moore and Himonga, ‘Living Customary Law and Families in South Africa’.

¹¹⁵ Ndelitungapo Eunice Sakaria, ‘Access to Justice for Black Women in South Africa: A Feminist Social Justice Perspective’ (University of Pretoria, 2022).

¹¹⁶ Sakaria.

¹¹⁷ Moore and Himonga, ‘Living Customary Law and Families in South Africa’.

¹¹⁸ Moore and Himonga.

¹¹⁹ Sakaria, ‘Access to Justice for Black Women in South Africa: A Feminist Social Justice Perspective’; Moore and Himonga, ‘Living Customary Law and Families in South Africa’.

¹²⁰ Moore and Himonga, ‘Living Customary Law and Families in South Africa’.

appreciating its redeeming features, its problem areas and colonial distortions that exacerbated women's vulnerability and other oppressive features of customary law," Thuli Madonsela¹²¹.

Madonsela gives an important view on how to engage with customary law, advising that customary law be treated like any other law, arguing that it is critical to identify where it is good, where it is problematic and, importantly, where it has been corrupted by colonialism and negatively impacts women. Taking a leaf from Madonsela, then we should not have a blanket view that sees customary law in a purely negative light or in an exclusively positive light, but critically analyse customary law so that we engage it in ways that give opportunities to respond to GBV effectively. Important customary law has to be aligned with the constitution.

explored.

Looking at the causes of GBV as discussed in the CSVSR report *Gender Based Violence in South Africa - A Brief Review* may be useful here to think about the ways to expand further on using customary law in pursuing justice for GBV. The CSVSR report presents an informative and nuanced discussion of the different factors that cause GBV in the South African context. These include patriarchal attitudes, cultural practices and socioeconomic status, which are all presented as root causes of GBV. The report states that these factors intersect and therefore responding to them requires careful engagement¹²². Furthermore, some of these factors such as cultural practices are contested, for example the commission of gender equality recommended the abolition of virginity testing, as this was seen to be a violation of the privacy of the girls who are tested and furthermore making them vulnerable to sexual abuse, due to beliefs that having sex with a virgin could cure HIV. This recommendation was met with resistance and a protest march¹²³ by some members of the KZN community where this practice mostly occurs. This is an example of the challenges of responding to GBV when programs need to engage with cultural practices. Other harmful cultural practices presented include circumcision in Xhosa culture, which has been found to promote GBV as those coming from being circumcised are encouraged to show their manhood in ways that can be harmful¹²⁴ [add a reference]. The practice of ukuthwala¹²⁵, the

¹²¹ Brent Lindeque, 'Thuli Madonsela - The Pursuit of Social Justice in South Africa!', *Good Things Guy* (blog), 29 August 2021, <https://www.goodthingsguy.com/opinion/thuli-madonsela-the-pursuit-of-social-justice-in-south-africa/>.

¹²² CSVSR, 'Gender Based Violence in South Africa - A Brief Review.'

¹²³ CSVSR.

¹²⁴ CSVSR.

¹²⁵ Curran and Bonthuys, 'Customary Law and Domestic Violence in Rural South African Communities'.

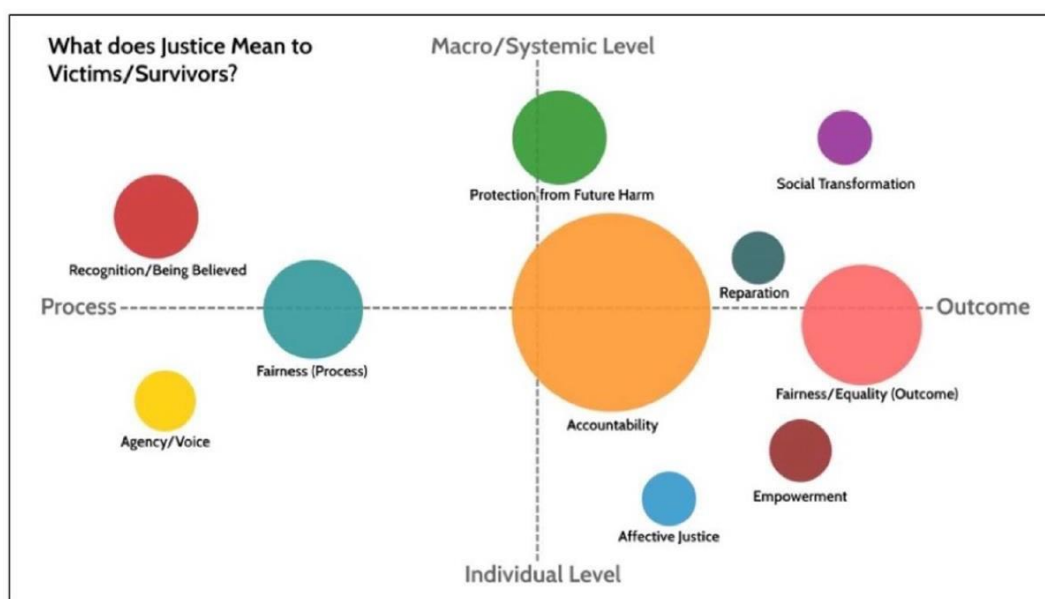
abduction of a woman to married, the paying of lobola which is the gift given to the bride's family at marriage that it has been found that lobola can be a factor that keeps women in harmful partnerships. What is significant in the discussion about harmful culture is that there are ways in which communities engage in these practices that are not harmful. A response to GBV in these contexts therefore requires an engagement at a community level beyond the individual response. For example, in Ixopo traditional leaders were engaged in training that led to shifts in their world views¹²⁶. The training used the similarity between the concept of Ubuntu and restorative justice to engage with traditional leaders and promote an approach to restorative justice as a proactive approach to crime prevention, not just in adjudication. The case study shows that it is possible to have a careful engagement with traditional leaders and the ways in which culture is interpreted in order to promote a more positive application.

The above discussion has explored the conceptualisation of GBV, the ways in which interventions have justifiably focused on violence against women and in that oftentimes overlooked responding to GBV that is experienced by LGBTQIA+ and gender non-conforming individuals. Importantly, South Africa has a model legal framework that should adequately respond to GBV in an ideal world. However, GBV rates remain concerningly high. Furthermore, South Africa has a plural legal system, leading to questions of how and why people make choices about which legal system to use in pursuing justice for GBV and in what ways this can be strengthened to ensure the victims and survivors of GBV receive the justice they deserve. In the following and final section, the discussion focuses on the ways justice for GBV has been conceptualised, as well as case studies of how healing has been pursued for and by survivors of GBV in the South African context.

¹²⁶ Marelize Schoeman, 'A Philosophical View of Social Transformation through Restorative Justice Teachings - a Case Study of Traditional Leaders in Ixopo, South Africa', *Phronimon* 13, no. 2 (1 January 2012): 19–38, <https://www.researchgate.net/publication/331704202>.

Survivor and community conceptualizations of justice and pathways to justice

To explore how communities understand justice, it is necessary to think about the process and outcomes of pursuing justice, as well as whether the focus is on the victim/survivor or perpetrator¹²⁷. A study on access to justice for victims of GBV in the UK is very instructive of the approach that may be useful in exploring justice for survivors of gender-based violence in the Masibambisane communities¹²⁸. The study analysed the narratives of survivors of GBV about what they understood to be justice and categorised them as discussed below. The findings of this study give concepts that may be useful to explore in this context. Although this study is based in the global north, the types of justice systems presented are useful in thinking about justice. The following is a list of these concepts with brief explanations. Justice is presented on a continuum that moves horizontally from process to outcome. On the vertical axis, justice is divided between an individual level vs a systemic/macro level. See image below copied from ‘*What Is Justice? Perspectives of Victims-Survivors of Gender-Based Violence*’ by Hester et al¹²⁹



1. At a macro or systemic level, justice as a process is about being **believed or**

¹²⁷ Sarah Sydenham, ‘Restoring Justice : Examining the Use of Restorative Justice Sentencing Practices in Cases of Gender-Based Violence Offences’ (Stellenbosch : Stellenbosch University, 2023), <http://hdl.handle.net/10019.1/127208>.

¹²⁸ Marianne Hester et al., ‘What Is Justice? Perspectives of Victims-Survivors of Gender-Based Violence’, *Violence Against Women* 31, no. 2 (February 2025): 570–97, <https://doi.org/10.1177/10778012231214772>.

¹²⁹ Hester et al.

- recognised**, that is, receiving recognition that you were abused.
2. At the individual level, the justice process is about having **agency or voice**, that is, the capacity to engage with the justice process.
 3. This is then followed by the **fairness of the process**, judged not solely on the appropriateness for an individual, but for all that it impacts. Fairness is about the process as well as the outcome.
 4. The process of justice is perceived as **accountability**, which is further broken down into the following factors:
 - a. **Recognition** by the perpetrator, institutions and or community that harm had been done,
 - b. **Rehabilitation** of the victim/survivor
 - c. **Vindication** by a higher power e.g karma paying back to the offender for the harm they caused.
 5. Accountability is linked to the fifth concept of justice at a systemic level, which is **protection from future harm** to the individual victim/survivor or others in the community because an appropriate response has been taken
 6. **Affective justice**, is experienced at the individual level, and is when a victim/survivor has a **sense of feeling** that justice has been done.
 7. **Empowerment** is at the individual level, and is viewed as an outcome of the justice process, where victims/survivors feel able to move past the offence, such as taking back control of aspects of their lives impacted by the offense.
 8. This is followed by **fairness/ equality**, which is a subjective view from the survivor/victim that their abstract idea of what justice is, has been met by the process.
 9. **Reparation**, an outcome of justice at a systemic level, was found especially significant for victims of intimate partner violence who may have lost finances to have distributive justice that repairs the harm done. This is important in our context to be wary of reparation that centres others and not the actual victim of GBV.
 10. At a systemic level, **social transformation** was seen as a justice outcome, where many victims join campaigns, start organisations or volunteer in organisations that are working against GBV in their communities.

This view of justice gives useful terminology as a starting point to explore what justice means in the Masibambisane communities. It presents what survivors of GBV expressed in interviews as their priorities when pursuing justice for GBV. The research started with the experiences of the survivors of GBV in order to develop these concepts. The FHR research similarly is asking the survivors and their families in the Masibambisane communities what justice for GBV means to them in order to then develop a conceptual framework that is based on the Masibambisane community contexts. It is however important to note that this model is very individualistic even as it remains useful as a starting framework. Beginning from this framework and exploring the different Masibambisane communities for what may be similar, or contradictory experiences and understandings of the justice to the above framework.

Healing

The impacts of GBV are complex, including physical injury, mental health challenges and substance abuse¹³⁰. “Specifically, the consequences include changes in how the women perceive themselves; for example, they may feel less competent than previously and inferior, with little control over their emotions. There are also feelings of shame, guilt and fear of being judged by others¹³¹. As a result, recovering from GBV is not a linear or standard process. This is what causes recovery to be a challenge, as survivors have to cope with the symptoms of the trauma as well as everyday life challenges. In relation to GBV, recovery from trauma is defined as rebuilding the self through reconnecting to the self, to others and to the world, finding new balance and meaning in life once the violence has ended¹³². This means that survivors of GBV need to form new outlooks on who they are, who others in their lives are, as well as a positive outlook on the world. This includes creating a separation between who they are and the violence they experienced¹³³. This raises the questions of what happens when people live in a context like South Africa, where GBV is endemic, and how

¹³⁰ Patricia Melgar Alcantud et al., “‘I Think I Will Need Help’: A Systematic Review of Who Facilitates the Recovery from Gender-Based Violence and How They Do So’, *Health Expectations: An International Journal of Public Participation in Health Care and Health Policy* 24, no. 1 (2021): 1–7, <https://doi.org/10.1111/hex.13157>.

¹³¹ Melgar Alcantud et al.

¹³² Laura Sinko and Denise Saint Arnault, ‘Finding the Strength to Heal: Understanding Recovery After Gender-Based Violence’, *Violence Against Women* 26, no. 12–13 (October 2020): 1616–35, <https://doi.org/10.1177/1077801219885185>.

one goes about creating a new identity that is different from the violence when living in a context with a lot of violence.

There are also some strategies of coping with GBV that are negative, for example, self-isolation and substance abuse. This means that recovery requires encouraging survivors to form connections, as recovery requires support and women cannot achieve it unilaterally¹³⁴.

Presenting a South African case study of healing from GBV, Dlamini¹³⁵ discusses an approach that is centred on creating safe spaces where survivors of GBV can pursue healing. Here:

the body is invited into the space to enhance and cultivate recovery. The self is at the intersection of the mind–body. It is an emergent product of both cognitive-discursive and embodied processes. Healing practices that simultaneously address the cognitive-discursive and embodied aspects of self can be particularly effective.’¹³⁶

In the above quote, healing involves moving/ using the body as well as thinking and expressing/talking in a space expressly created for healing. The healing space allows survivors to both feel in their bodies, as well as to tell their stories and be heard. The healing spaces include art making, music and as a theology based program, the studying of the bible. Dlamini¹³⁷ is critical of the ways the church and pastoral care have not always been useful in responding to GBV. As such, the case study she presents is based on an engagement that moves from the usual pastoral approach to GBV, and creates space for LGBTQIA+ and women to be heard. A similar art-based approach to giving women space to speak about GBV argues for a shift away from seeing women as “voiceless helpless, bartered, in need of “saviors” but to acknowledge their agency, resourcefulness, and the knowledge they have about their own living experiences”¹³⁸. This is a way of listening to the women in a form where they are able to speak about not only their experiences but also show their resilience in

¹³³ Melgar Alcantud et al., “‘I Think I Will Need Help’”; Sinko and Saint Arnault, ‘Finding the Strength to Heal’.

¹³⁴ Melgar Alcantud et al., “‘I Think I Will Need Help’”.

¹³⁵ Zamantshali Dlamini, ‘Beyond Binaries: Gender-Based Violence Survivors Rethreading Embodied Healing and Redefining Accompaniment through Creative Feminist Resources and Processes’, *Feminist Theology* 33, no. 2 (January 2025): 123–36, <https://doi.org/10.1177/09667350241298627>.

¹³⁶ Dlamini.

¹³⁷ {Citation}

¹³⁸ Puleng Segalo and Michelle Fine, ‘Under Lying Conditions of Gender-based Violence—Decolonial Feminism Meets Epistemic Ignorance: Critical Transnational Conversations’, *Social and Personality Psychology Compass* 14, no. 10 (October 2020): 7, <https://doi.org/10.1111/spc3.12568>.

resisting and building survival.

In a discussion of a “community of women who use their knowledge of making embroideries to tell and share their complex lived experiences”¹³⁹.

This is a decolonial methodology, which encompasses both remembering and reimagining while also “advocating for love and care where one's humanity is embraced first and foremost”¹⁴⁰. The embroideries link past and present violence, a decolonial approach to GBV that can be adopted as a decolonial feminist approach to GBV. Psychological intervention to GBV must always link the symptom which is GBV to the history of violence, this includes looking at colonialism and capitalism, the ways in which these systems of violence have relegated women to the bottom of the hierarchy of value and thus resulting in women and black women being vulnerable to GBV¹⁴¹.

Significantly, the above two cases, based in South Africa, discuss healing not only of present GBV experiences, but also place them in the context of history and look at the healing of past as well as present experiences. Similar to Alcantud et al's ¹⁴²assertions that healing involves forming connections, Dlamini¹⁴³ and Segalo & Fine¹⁴⁴ present cases of survivors of GBV healing in community, the healing space created within the church which brings both A+ and women together, as well as the women creating embroideries communally.

The quantitative surveys in the Masibambisane communities presented survivors' reporting that families provided support in the aftermath of experiencing GBV. The above discussion shows that for healing after GBV to occur, connection to others and community is a significant factor. Further to connection is the importance that a survivor can speak about their experience in different ways, such as in music or embroidery. This framing of healing is significant in exploring the data generated in the FHR qualitative research and further building on the surveys to deepen understanding of the support that survivors already have and how this can be strengthened.

Conclusion

¹³⁹ Segalo and Fine, 7.

¹⁴⁰ Segalo and Fine, 7.

¹⁴¹ Segalo and Fine, 'Under Lying Conditions of Gender-based Violence—Decolonial Feminism Meets Epistemic Ignorance'.

¹⁴² Melgar Alcantud et al., "'I Think I Will Need Help'".

¹⁴³ Dlamini, 'Beyond Binaries'.

¹⁴⁴ Segalo and Fine, 'Under Lying Conditions of Gender-based Violence—Decolonial Feminism Meets Epistemic Ignorance'.

The above discussion has presented some conceptual considerations towards a decolonial approach to researching GBV in South Africa. The starting point is an acknowledgement of the history of South Africa, so that GBV is understood within a historical context that sheds light on the GBV prevalence and the challenges inherent in responding to it. Firstly South Africa has model laws when it comes to GBV. The definition of GBV adopted in the policies is expansive, inclusive of women, children, LGBTQIA+, men and boys. This inclusive definition of GBV is pivotal to the crafting of a more comprehensive response to GBV. The acknowledgement that men and boys can also be victims of survivors of GBV is important and also requires a nuanced understanding. Acknowledging men's victimhood to GBV does not take away from the fact that men are disproportionately more likely to be the perpetrators of violence. This is linked to the ways in which masculinity is defined and so the engagement with men as victims or survivors of GBV is important to the ways we understand masculinities especially for programs that are aimed at working with men in intervening against GBV.

In South Africa the plural forms of justice are also important to consider. The discussion has highlighted that people make choices about which justice system to engage based on their perceptions of appropriateness or effectiveness. At other times, family and/or the community influence the choices made, for example, where reporting to the police is deterred to protect the image of the family or perpetrator. Further exploration of how individuals make choices between the criminal justice system and customary law is required. This is in order to understand how programmatic interventions may be tailored to strengthen what communities are already doing, which would be sustained when programmes end. Additionally, the review has presented the importance of analysing customary law and how it is applied in GBV cases in order to engage it in more useful and sustainable ways.

The report has also presented how using an intersectional lens to understand GBV is important towards a better understanding of GBV and the ways to intervene. An intersectional perspective is useful for an understanding of the ways in which the social locations of people influence their vulnerability to GBV. It moves GBV beyond being VAW to show that men are also rendered susceptible to GBV, including LGBTQIA+ individuals and that not all women are equally vulnerable to GBV. This intersectional perspective is further important as it is contextual, and in different contexts, different factors may be more significant, for example, in one province, virginity testing may be a factor that makes girls

more vulnerable to GBV, whereas in another the rites that come with circumcision may be what is linked to GBV. This is important in order for responses to GBV to be contextually relevant and respond to the most pressing issues in each context.

The above discussion presents important considerations of the issues that need exploration in the Masibambisane communities pursuant to understanding how GBV survivors access justice. The qualitative research will provide an understanding of the context and the choices that communities and individuals make in pursuing justice whether it is through the legal justice system, customary law, or other non-legal processes and the role that the family, community and other institutions play in how justice is pursued. Most importantly, this review signposts towards the concepts that need to be defined in each Masibambisane context for more effective engagement and interventions towards justice for GBV.

Annex 3 Methodology & Limitations

Research Design

This study followed a qualitative research approach, which is well-suited to exploring complex social issues and understanding human experiences in depth. Denzin and Lincoln (Guba and Lincoln 1994) describe qualitative research as a method that seeks to understand the whole by examining the broader context in which people live and act. Within this approach, the study employed a decolonial approach that centres the lived experiences of those affected by social injustices, enabling them to lead inquiry (Maponya 2023). The study's central aim: to understand how people affected by GBV perceive justice and what it looks like in their daily lives. This design foregrounds collaboration, involving Masibambisane partner organisations and community members as co-researchers throughout the process.

The study builds on two earlier quantitative surveys conducted by the Foundation for Human Rights (FHR) and its partners, which offered valuable statistical insights into GBVF and socio-economic conditions. However, to fully grasp the emotional, cultural, and social dimensions of justice, a qualitative, participatory approach was essential. Using in-depth, semi-structured interviews and focus group discussions with survivors and families of survivors, the study generated rich, narrative data that reflect survivors' subjective understandings of justice, rooted in their lived realities and collective experiences. This approach complements the previous quantitative work, by adding personal stories and deeper understanding to the existing statistics and survey results. The qualitative data will be particularly valuable for understanding not just what is happening in these communities, but why and how these issues play out in people's lives.

Context

This research was conducted as part of the Masibambisane Gender Justice Programme, a national initiative led by the Foundation for Human Rights (FHR) to address gender-based violence and femicide (GBVF) through community-driven strategies. The programme spans all nine provinces of South Africa and works with 22 small, community-based civil society organisations operating in under-resourced, marginalised areas. These partner organisations are embedded in urban, semi-urban, rural, and informal settlement contexts, where they engage directly with survivors of GBV, their families, and broader community members, including LGBTQIA+ individuals.

The Masibambisane partners facilitate GBVF-Free Zones and local forums that serve as safe spaces for dialogue, support, and advocacy. These spaces also became key sites for data collection in this study. The

research aimed to explore how justice is understood and experienced by those affected by GBVF, grounding the inquiry in the lived realities of community members. Data was collected through interviews and focus group discussions with survivors and key informants from partner organisations. By involving partners and communities throughout the process, the study reflects a participatory approach that values local knowledge and collective action in shaping responses to GBVF.

Training Workshop

In preparation for data collection, the FHR conducted a comprehensive three-day in-person research workshop for representatives from all Masibambisane partner organisations, as well as FHR staff. Each Masibambisane organisation nominated one staff member to attend the training as their designated focus group facilitator. The workshop employed participatory methodologies and was led by an experienced facilitator specialising in qualitative research approaches.

The training provided detailed guidance on qualitative research methods, with particular emphasis on the specific requirements of this GBV-focused study. Participants engaged actively in refining the research instruments, including the key informant interview guides, focus group discussion frameworks, and individual interview protocols. While the FHR research team had prepared initial question templates in advance, all questions were thoroughly reviewed, reworded, and finalised through collaborative discussion during the workshop sessions.

Given the sensitive nature of the research topic, significant time was dedicated to ethical considerations. Participants received in-depth training on informed consent procedures and worked together to develop appropriate consent and confidentiality forms tailored to the study context. This participatory approach ensured that all research tools were culturally appropriate and sensitive to the needs of GBV survivors and other vulnerable participants. The workshop also covered practical aspects of data collection, including facilitation techniques for creating safe discussion spaces and protocols for handling disclosures during fieldwork.

Sampling and Participants in the research

Purposive sampling was employed and the following individuals participated in the study.

1. **Lived Experience:** All participants had personal exposure to GBV—either as survivors, family members of survivors, or LGBTQIA+ individuals facing gender-based discrimination. This ensured the data reflected real, firsthand accounts rather than general opinions.
2. **Community Connection:** Participants had to reside in Masibambisane-served communities, as the research aimed to capture localized experiences of GBV and access to justice.
3. **Group-Specific Demographics:** Focus groups were gender-segregated (e.g., women-only or men-only groups) to create safer spaces for sharing sensitive experiences. LGBTQIA+ participants were grouped based on self-identification to respect their privacy and comfort.

This sampling approach prioritized depth and relevance, allowing the research to center the voices of those most

affected by GBV while maintaining methodological rigor. By involving both organisational staff (KIIs) and community members (FGDs and interviews), the study captured multiple perspectives on GBV responses—from service providers to survivors. Twenty two (22) Virtual Key Informant Interviews (KIIs) with leaders of the Masibambisane programme, were conducted by FHR Programme Officers. The Masibambisane partners conducted thirty (30) in-person Focus Groups: 21 with women, 1 with men, 3 with LGBTQIA+ participants, and 5 with family members of survivors; Three (3) additional interviews: 2 survivors (1 female, 1 male) and 1 female survivor living with a disability.

Key Informant Interviews (KIIs)

The KII participants were staff members from organisations funded by the FHR’s Masibambisane Gender Justice Programme. Each of the 22 Masibambisane organisations was asked to nominate one representative to participate in a virtual KII. While organisations could choose their nominee, they were instructed to select someone actively involved in the organisation’s GBV-related work. The KIIs were conducted by FHR programme officers who had prior experience working with these organisations, ensuring interviewers were familiar with the context and challenges faced by the partners.

Focus Group Discussions (FGDs)

Participant selection for the focus groups was managed by the Masibambisane organisations, with guidance on group composition. Participants were members of the Masibambisane communities and fall into one of three categories:

- Women survivors of GBV
- Men affected by GBV (as survivors or through family experiences)
- Families of GBV survivors (including LGBTQIA+ individuals)

Each focus group consisted of 6–8 participants and was facilitated by two staff members from the Masibambisane organization, at least one of whom had attended the FHR’s three-day research training in April 2025. This ensured facilitators had a basic understanding of research protocols, ethical considerations, and GBV-sensitive approaches. During the planning and training workshop Masibambisane partners were advised to ensure that females facilitated the FGDs with females however one of the focus group discussions with female survivors had a male facilitator, based on the transcript and recording of the discussion this proceeded well.

Data Collection and Analysis.

One member of each Masibambisane organisation familiar with the GBV work of their organisation participated in a virtual interview as a key informant. The KIIs were in the language most comfortable for both parties and were conducted by FHR programme officers who had worked with the organisations before. Audio (and video where available) of the KIIs were recorded, and the FHR programme officer who conducted the KII transcribed and translated the audio recording.

The FHR staff who conducted the KIIs were asked to write reflective notes after completing each interview. These notes recorded important contextual details, nonverbal cues, and the interviewers’ own reflections on the

process. By capturing nuances that might not be evident in the transcripts—especially after translation—the reflective notes contributed to a richer, more informed analysis. This approach also helped to acknowledge and account for the perspectives and potential biases of the interviewers during data interpretation.

The Focus Groups took place in person and were facilitated by two members from each Masibambisane organisation – at least one of whom had to have attended the three day training workshop held by the FHR in April 2025. Each FGD had six to eight participants and the language used was chosen based on the needs of the participants. The FGDs were audio recorded, transcription and translated was done by university students hired by FHR. Each transcriber was fluent in the languages in their assigned FGD audio recording and the translation and transcription process took place at the same time, by the same person. Transcribers were instructed to include any specific vernacular terms or words in the transcription, as well as their closest English translated equivalent. Once the translation and transcription process was completed, the FHR research team checked the transcripts for accuracy and quality before using them for analysis. This ensured that all translations properly captured the original meaning as much as is possible while converting the content to English.

Collaborative Thematic Analysis

Research skills development for the FHR staff formed a critical part of this research. The data analysis therefore followed a collaborative approach following Richards & Hemphris and Barry et al (2018; 1999). This entailed a training workshop on thematic analysis and collaborative thematic analysis. Inductive coding was used to create the codes which formed the basis of the analysis. Inductive coding refers to deriving codes directly from the raw data (Bingham, A.J. 2023). The codes were based on both the KIIs, focus groups and interviews. FHR programme and research staff were tasked with reading the transcripts and recording initial codes, which were then combined and refined to create a final set of codes by the lead researcher.

The coding and analysis of the data was done through a team approach involving two groups - the general programme team made up of FHR programme officers and interns, together with a dedicated research team comprised of FHR staff and led by an external researcher. The coding was developed in peer review teams where staff would work in pairs to analyse the transcripts. These initial codes were then discussed thoroughly during weekly in-person research workshops that were facilitated by the lead researcher and attended by all research and programme staff.

The codes went through a peer review process by FHR staff to ensure quality and accuracy. The weekly workshops provided a space for robust discussion where any differences in coding could be debated and resolved. Programme officers brought their direct experience working with the communities, while the research team contributed their technical analysis skills. This combination of practical knowledge and research expertise helped develop themes that properly reflected what participants had shared during the interviews and focus groups. The process made sure that all voices were considered and that the final themes captured the true meaning in the data. By having multiple people review the codes and through the regular workshop discussions, the analysis maintained both consistency and depth across both KIIs and FGs.

The coding process was subject to peer review. The coding of the KIIs was initially done by the FHR programme officer who had conducted the KII, then shared with a FHR colleague who had not been present during the interview. Both the original programme officer and their peer were instructed to read the entire transcript of the KII and to discuss the codes that they found. Once both parties agreed that the codes and definitions were suitable, the codes were combined into one document and submitted to the Research Team.

The peer review process for the FGDs and survivor interviews were similar to the KII review process. The most significant difference being that the coding was done by the FHR Research Team rather than the programme officers themselves. This was because the FGDs and other survivor interviews were not done by FHR staff, therefore there was no need to involve specific programme officers as their experience of a specific Masibambisane organisation was not relevant to the coding and analysis.

The FHR team met weekly for Research Workshops which were conducted by the Lead Researcher. The Research Workshops discussed in detail the coding and peer review process, and gave FHR staff the opportunity to engage deeply with the research process in a participatory manner. After each round of coding, FHR staff would meet in person to discuss their findings and any issues. After this discussion the Lead Researcher would detail the next steps in the coding and analysis process.

Ethical Considerations

This study adhered to strict ethical standards to ensure the safety, dignity, and autonomy of all participants. Informed consent was obtained from each participant prior to data collection, with consent forms clearly outlining the purpose of the study, the voluntary nature of participation, and the right to withdraw at any time without consequence. To protect confidentiality, all personal identifiers were removed, and participants' names were replaced with pseudonyms in all transcripts and reporting. Data was securely stored and only accessible to authorised members of the research team.

Participation was entirely voluntary, and care was taken to ensure that individuals felt no pressure to take part. In alignment with the Foundation for Human Rights' (FHR) "Do No Harm" policy, additional measures were implemented to mitigate risks of re-traumatisation and secondary traumatisation. FHR staff involved in the project, external transcribers, partner organisation staff, and community members who participated in the study were all offered access to psychosocial support services through established referral channels. These supports were made available throughout the research process to ensure emotional wellbeing and to uphold the ethical integrity of the study.

Limitations

Limitations related to KIIs

Several limitations should be noted regarding the KII process. Firstly, while the FHR staff conducting the

interviews were familiar with the organisations involved, the existing power dynamics may have influenced responses. As the FHR both funds these organisations and conducted the interviews through the same programme officers responsible for funding reviews, some organisations might have provided answers they believed were expected, despite assurances of anonymity and that responses would not affect future funding.

Secondly, while all FHR programme staff received training during the three-day workshop in April 2025, many were conducting KIIs for the first time. Although experienced in project implementation, some staff members lacked prior research interview experience, which may have affected the depth and quality of some interviews.

Thirdly, while organisations were instructed that only one staff member should participate, some interviews included additional organisation members. This deviation from protocol may have influenced responses, particularly when participants held different positions within the organisation's hierarchy.

Lastly, as the KIIs occurred shortly after the training workshop, some responses may have reflected recent workshop discussions rather than the participants' genuine experiences and opinions. The proximity of these events may have shaped how some informants framed their answers.

These limitations were mitigated where possible through training, clear protocols and anonymity assurances, but should be considered when interpreting the findings. The combination of these factors may have influenced the openness and completeness of some responses received during the KII process.

Limitations related to Focus Group Discussions and Interviews

Several limitations were identified in how the focus groups were conducted that may have influenced the findings. Firstly, while each organisation was meant to use their staff member who attended the April training workshop as the facilitator, some ended up using different people who hadn't received the proper training. These untrained facilitators might not have followed the research methods correctly, which could have affected how the discussions went.

The way participants were chosen for the focus groups may also have created some problems. Although organisations were given guidelines about who should participate, they made the final selections themselves. Because of confidentiality rules, the FHR couldn't check exactly who took part. It's likely that organisations chose people they already knew or had worked with before, including some who may have been helped by the same organisation with GBV cases. This might have made participants more likely to say positive things about the organisation's work, rather than giving completely honest answers.

A serious issue came up when one organisation used a male facilitator for a focus group with women who had survived GBV, even though they were specifically told this wasn't appropriate. This happened in the Katekani focus group, and the research team made special note of it during the analysis. They instructed the coders to mark clearly whenever they heard a man's voice in the recordings of women's discussions, as this would have affected what participants felt comfortable sharing.

There were also difficulties with language. Although the focus groups were conducted in whatever language the participants preferred, all the questions were originally written in English. The organisations had to translate these questions themselves without professional help, which might have led to some questions being asked differently than intended. This could have changed how participants understood and answered them.

These limitations - untrained facilitators, possible bias in who participated, inappropriate facilitation in some cases, and language translation issues - mean we need to be careful when looking at the focus group results.

Limitations Related to FHR Staff Involvement in the Research Process

The research process faced several challenges related to staff capacity and experience. A significant portion of the coding work was conducted by FHR programme staff who, despite attending a three-day research workshop in April 2025, had little to no prior experience in qualitative research methods. While the research aimed to contribute to understanding GBV in Masibambisane communities, it was also deliberately structured to provide FHR staff with exposure to research processes. This dual purpose meant that staff without research backgrounds were necessarily involved in technical aspects of the study.

The situation was further complicated by competing work demands. FHR programme staff participating in the research maintained their regular responsibilities alongside the research work, which led to delays in meeting deadlines and created frustration among some team members. These time pressures, combined with the relative inexperience of many staff members, likely impacted the quality and consistency of the coding process.

Despite these challenges, the research benefited from the leadership of an experienced external researcher who conducted weekly training workshops to support staff. However, the fundamental tension between building staff research capacity and maintaining rigorous research standards remained throughout the project. This balancing act may have affected various aspects of the research implementation, from data collection through to analysis, and should be considered when interpreting the study's findings. The experience highlights both the value and limitations of using operational staff as researchers in complex qualitative studies.

Limitations Related to Time and Resource Constraints

The research was conducted within a relatively short time frame and with limited resources, which is a common challenge for civil society organisations undertaking research projects. This meant that the level of consultation with participants, facilitators and partner organisations was more restricted than would have been ideal under different circumstances. In an optimal research process, the facilitators who conducted the focus groups and interviews would have been directly involved in the coding and analysis stages, as their direct engagement with participants would have provided valuable contextual understanding during data interpretation.

Furthermore, the research questions themselves would ideally have been developed in close collaboration with the partner organisations from the beginning of the process, rather than being primarily researcher-led. The overall focus and design of the research were also influenced to some degree by the FHR's existing operational

funding requirements, which meant the study had to align with certain predetermined objectives. While this ensured the research remained relevant to the FHR's work, it may have limited opportunities for a more organic, community-driven research process to emerge.

These constraints - the limited time frame, restricted resources and funding-related parameters - represent practical realities that affected various aspects of the research. While the study still produced meaningful findings, these limitations should be taken into account when considering the results and their implications. The compressed timeline particularly impacted the analysis phase, where more time would have allowed for deeper engagement with the data and more thorough refinement of themes. The situation highlights both the challenges of conducting rigorous research within operational constraints, and the value of the insights that were nevertheless achieved under these conditions.

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