

**Fighting Gender-Based Violence:
A suggested approach for social investors**

Compiled for

Tshikululu Social Investments

By

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1. Background

South Africa's Constitution guarantees the rights to equality (regardless of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth), human dignity, life, freedom, and security of the person.

Within the framework of the Constitution, South Africa has a range of gender equitable laws that deal with the issue of violence against women, notably the Domestic Violence Act and the Sexual Offences Act. Furthermore, the Promotion of Equality and Prevention of Unfair Discrimination Act aims to fulfil the right of equality for all. The Ministry for Women, Children and Persons with Disabilities was established to ensure that gender issues are mainstreamed throughout all government departments.

The Commission on Gender Equality is mandated with the task of exposing gender discrimination in laws, policies and practises and with investigating any gender related issues and resolving them; and the South African Human Rights Commission is mandated to promote a culture of human right, to promote the protection, development and attainment of human rights.

South Africa has also accepted and ratified the Millennium Development Goals (with specific reference to: Gender Equality, and Maternal Health) and the Beijing Conference "to advance the goals of equality, development and peace for women everywhere" which are landmarks in the gender sector internationally and in South Africa. The Beijing Conference committed to three strategic objectives:

1. To take integrated measures to prevent and eliminate violence against women;
2. To study the causes and consequences of violence against women and the effectiveness of preventative measures; and
3. To eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

In spite of all of this, the incidence of sexual violence in South Africa is alarming, protection is limited and perpetrators often enjoy impunity. South Africa has some of the highest sexual violence statistics in the world.

The official statistics compiled by the South African Police Service for the period 2009/2010 reflect 68 332 cases of sexual offences (compared to 70 514 in 2008/2009). These statistics, however, only reflect the reported cases, and the actual numbers are much higher, if unreported cases are considered. In 2002, the Medical Research Council (MRC) estimated that 88% of rape cases go unreported. In the same study, 40% of women interviewed in Cape Town had experienced sexual assault; 45% of women aged between 14 and 24 years described their first sexual experience as coerced, tricked, forced or rape; 27.6% of men admitted having raped a woman (almost half had raped their own girlfriend or wife and half admitted to having raped more than one women or girl). The report raises concerns around the levels of domestic violence and found the following:

- 31% of pregnant women interviewed in KZN reported having experienced domestic violence; and
- A three-province study found that 27% of women in the Eastern Cape, 28% of women in Mpumalanga, and 19% of women in the Northern Province had been physically abused by a partner. 51% of women in the Eastern Cape, 50% of women in Mpumalanga and 40% in the

Northern Province had experienced emotional and financial abuse (Criminal Injustice Against Women in South Africa: Shadow Report on Beijing + 15, 2010, p.8).

A study done by former gender programme manager of the Centre for the Study of Violence and Reconciliation, Lisa Vetten, reports that:

"...close to one in three women experiences violence at the hands of their intimate partners. When emotional and economic abuse is included within an understanding of domestic violence, this number rises to one in two.... National figures for intimate femicide (men's killing of their intimate female partners) suggest that this most lethal form of domestic violence is prevalent in South Africa. In 1999 8.8 per 100 000 of the female population aged 14 years and older died at the hands of their partners – the highest rate ever reported in research anywhere in the world." (On the Margins: Abuse against Women With Disabilities, p.2)

All these studies indicate that the actual sexual offence statistics are much higher than the official SAPS statistics.

Marginalised women, such as lesbians, gay women, transgender persons, bisexual, women with disabilities, HIV positive women and refugee women are particularly vulnerable to sexual violence. While there are no reliable figures for sexual violence against these marginalised groups, the figures are estimated to be high. Not only are women with disabilities particularly vulnerable to abuse; but gender-based violence may also result in disability.

Many women live in housing and communal environments which reinforce vulnerability as they have to walk home at night in unlit areas. Another recent study by Ms Vetten exposed the lack of safety in so-called "RDP settlements" (the same locks had been used on all doors, electricity metres were installed outside, far distances to walk from bus stops and services such as schools and clinics).

In spite of South Africa's progressive legislation, regarding justice for survivors of gender-based violence, practical implementation is poor and often results in secondary abuse, which in turn, leads to decreased reporting for fear of secondary victimisation. The criminal justice system must be improved to ensure real justice. As a result of government's inadequate response to gender-based violence and other gender issues, much work in the gender sector is carried out and supported by non-governmental organisations.

2. The social investor's response

Three areas of direct CSI response could be in those of:

1. Rape;
2. Women and Child Abuse; and
3. Health (which will be dealt with in another section).

Both areas of rape and child and women abuse fall under the broader definition of gender-based violence (GBV)¹.

To date, a great deal of CSI funding in South Africa has been directed towards support and care (such as shelters, legal services for women). While these services are critically important; equally important and under-supported and under-developed is the *prevention* of gender-based violence. Well developed prevention programmes will ultimately help to prevent gender-based violence.

There is also a need to move towards a more considered and local approach which includes community based knowledge and participation, rather than generic programmes which are rolled out without being adapted or without seeking community buy-in and which do not necessarily suit all women, situations or communities. Tshikululu Social Investments recommends a more integrated and holistic programme, which includes working with men as partners, and which includes support of marginalised groups of women, such as women with disabilities and refugee women.

2.1. Goal:

The ultimate goal is that of reducing the incidence of gender-based violence; of reducing the incidence of secondary victimisation through the criminal justice system; and providing support to survivors of gender-based violence.

2.2. Strategy:

To achieve this goal, a three-pronged strategy is recommended:

1. The development of community-based prevention strategies;
2. The strengthening of criminal justice system; and
3. Discretionary grants programme to support the proposed strategy.

¹ Gender-based violence has been defined by the *United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* as 'any act...that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in private or public life...violence against women shall be understood to encompass, but not be limited to, physical, sexual and psychological violence occurring in the family, the community, including battery, sexual abuse of female children, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence, violence related to exploitation, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, forced prostitution, and violence against women perpetrated and condoned by the state'. (Gender-Based Violence in South Africa by Dr Jane Bennett: <http://web.uct.ac.za/org/agi/pubs/newsletters/vol6/gbvsa.htm>)

2.3. Objectives:

The specific objectives of such a programme would be:

1. To reduce the incidence of gender-based violence by supporting community-based preventative strategies/models;
2. To build capacity in the gender sector and local communities, by including community based organisations in the development of community-based preventative strategies/models;
3. To improve criminal justice services to survivors of gender-based violence, and thereby:
 - a. Increase access to criminal justice services,
 - b. Increase the numbers of convictions,
 - c. To prevent secondary abuse and victimisation, and
 - d. To ensure real justice to survivors of gender-based violence.
4. To support care and support in the gender sector by supporting best-practice organisations through the discretionary grants programme; and
5. To mainstream marginalised groups across the focus areas of the programme.

3. The three-pronged approach

3.1. Community-based prevention

Women are not a homogenous group and have multiple identities according to race, class, sexual orientation, rural or urban, HIV status, disability, and refugee status to name a few. Gender-based violence cuts across all groups of women. It therefore stands to reason that specialised prevention programmes are required to address gender-based violence in different communities. Experience has indicated that community-developed programmes are the most successful programmes. Without community-buy-in and participation, preventative programmes (of any kind) often fail.

Research in South Africa, the United States and Europe has shown that community-based crime prevention reduces the rates of drug and alcohol abuse and thereby reduces also reduces crimes such as domestic violence (*Manual for Community-Based Crime Prevention: Making South Africa Safe* p. 3).

Government, too, has recognised the need for community crime prevention: and define a community crime strategy as:

- An action to prevent crime and violence and reduce public fear of crime;
- A tool to bring together different role-players involved in crime prevention;
- A means of developing local crime prevention partnerships;
- A method to ensure coordination and management of crime prevention initiatives;
- A way to identify priority areas and tasks (*Manual for Community-Based Crime Prevention: Making South Africa Safe*. p.3).

This strategy includes gender-based violence prevention. Community-based prevention and supports and strengthens official strategies, policies and services. Community-based prevention (which includes all members of a community) of gender-based violence is without any doubt a gap in South Africa's gender landscape.

Gender-based violence had been interpreted as violence against women and children, perpetrated by men. Following this definition, most of the interventions around prevention of gender-based violence, target women and children and place little emphasis on men (who are also community members!). Traditionally South Africa still mirrors patriarchal values, even though transformation around gender equality, and promotion of women's rights has been widely been acknowledged. Men have felt that their masculinity is challenged and the result has been that the empowerment of women has unfortunately been interpreted as the disempowerment of men. Some organisations have broken ground by developing programmes to work with Men as Partners (notably Sonke Gender Justice).

Furthermore, existing interventions target individuals primarily. However, individuals are linked to more comprehensive, diverse and community-based networks of support and services. There is therefore a need to strengthen community involvement in addressing the problems that affect community members. Traditionally, culture and tradition have played a role in perpetuating gender-based violence. There is a need to involve traditional leaders and structures in finding a solution to gender-based violence and rebuilding social cohesion in the communities.

In the past, communities have been effective in implementing their own preventative measures within the community. Despite the challenges that some of these measures pose, there is a lot to learn from indigenous knowledge systems. This knowledge should be consulted to formulate effective community-based gender-based violence prevention strategies.

Recommendation

Tshikululu recommends that social investors identify and support innovative community-based prevention strategies. Since there are few well-defined and truly community-based prevention strategies, NGOs should be invited to propose models/strategies of community-based gender-based violence prevention. The implication of identifying strategies/models which are strongly community-based is far-reaching and can have a positive preventative effect in the broader South African gender landscape.

The programme should identify and fund strategies and initiatives that promote, support and strengthen community based initiatives which address gender-based violence. The strategies should include:

- Protecting people with disabilities, who are particularly vulnerable against abuse.
- Reproductive health issues.
- HIV/AIDS.
- Men as partners.
- Custodians of gender practices in the communities.
- Traditional affairs.

It is recommended that three-year interventions be supported and that only few partners are selected. Provinces selected will be based on strategies proposed by NGOs.

3.2. Strengthening criminal justice systems

Sexual violence receives much attention in the media. While it is unfortunate that articles are sometimes sensationalist and can take attention away from more common forms of gender based violence (such as violence by perpetrators known to the victim), they do highlight the shortcomings of the criminal justice system, including delays in processing and prosecution, minimum sentence guidelines not being adhered to, and cases being withdrawn or dismissed due to inadequate capturing of evidence and investigation by the clinics and SAPS. The reality is that perpetrators often go unpunished and conviction rates are low (one in nine cases end up in prosecution).

The 2010 *Shadow Report on Beijing + 15* compiled by People Opposing Women Abuse and its partners acknowledges the policies which have been developed to address violence against women, but at the same time highlights the inadequacy of measures taken, the lack of access to justice and effective remedies, and the lack of access to mechanisms, and processes of justice (p.16).

The One in Nine Campaign has noted that, among other shortfalls:

- Female survivors of sexual violence are often confronted with unsympathetic and hostile treatment from the health services, police, prosecutors, and often judicial officers;

- Investigations and medical investigations are not thoroughly and effectively conducted to ensure successful prosecution;
- Unreasonable delays and withdrawal of cases are a common occurrence which has a negative effect on a complainant witness;
- Judicial officers routinely fail to effectively implement legislative provisions relating to bail applications, rules of evidence and sentencing (and often under sentence); and
- The extent of the harm suffered as a result of the gendered dimension of sexual violence is underestimated resulting in the absence of a gender sensitive approach to criminal prosecution of rape cases.

From initial reporting of the sexual offence to sentencing or dismissal or withdrawal of the case, all levels of role players in the criminal justice system are routinely insensitive and often dismissive of the rights of survivors to equality and dignity; and demonstrate a lack of urgency to take these cases seriously (*Shadow Report on Beijing + 15*, p.19).

Although legislation is progressive and aims to protect the rights of survivors of sexual violence, there is inadequate costing and budget allocation for proper implementation; and there are delays in reviewing and enacting legislation; and failure to implement laws (such as minimum sentencing). Without the work of NGOs, many survivors of sexual violence would not receive any assistance to navigate their way through the criminal justice system (*Shadow Report on Beijing + 15*, p. 22).

There have been attempts to address the shortcomings in the criminal justice system, such as the establishment of Equality Courts (informal civil courts situated within designated Magistrate's Courts and all High Courts) in 2003 by the Promotion of Equality and Prevention of Unfair Discrimination Act in order to advance equality in South Africa. However, the courts' availability and quality is inconsistent.

Furthermore, an Inter-Departmental Management Team (IDMT) has been developed to develop a coordinated multi-disciplinary response to GBV. However civil society was not adequately consulted, resulting in inadequate responses. In 1995 a specialised unit called the Family Violence and Child Protection and Sexual Offences (more commonly referred to as CPUs) were established. Members of this unit received specialised training. Unfortunately these units were closed down in 2005 and the specially trained staff deployed elsewhere. This had serious effects of reporting and prosecution of sexual offence cases. Fortunately in September 2009, Police Minister Nathi Mthethwa announced plans to reinstate the units.

The *Shadow Report Beijing + 15* recommends the following going forward:

- To prevent violence against women ..., prosecute and punish all perpetrators and through effective institutions and mechanisms, provide remedies and redress to survivors.
- To strengthen the implementation and monitoring of all legislation and policies aimed at protecting women from violence, in particular, the Domestic Violence Act (1998), the Sexual Offences Act (2007) and the Minimum Sentencing Legislation Framework and related criminal and civil laws.

Clearly there are opportunities for NGOs, with the help of funders, to strengthen the criminal justice system to improve existing criminal justice services to survivors of sexual violence.

3.3. Discretionary grants

Discretionary grants can support the objectives of this approach by extending funding to care and support, such as (but not confined to) legal support, health support, advice, counselling and shelters.

By addressing gaps within the sector, especially in community-based prevention and in the strengthening of the criminal justice system, this recommended approach has the potential to make real changes and address predominantly the causes and not only the symptoms of gender-based violence.

4. References

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Additional information

For additional information on the work of Tshikululu Social Investments, please visit www.tshikululu.org.za