Research Brief

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Unravelling the contribution of women's movement activism to transforming gender-based violence policy in South Africa: Combining stories and numbers

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Introduction

South Africa is known as one of the most violent countries in the world, due to high levels of sexual violence and femicide, among others. South Africa's extreme levels of gendered violence are deeply rooted in the country's complex history of colonisation and apartheid, predicated on discrimination that provided the conditions for gendered violence[1]. Colonial powers and the apartheid regime used gendered violence to shape the country's patriarchal structures. Post-apartheid, colonial legacies persist. For instance, the legal system, inherited from the colonial and apartheid eras, has historically marginalised certain groups, particularly black and poor women, perpetuating their vulnerability to violence. Even with legal reforms, structural inequalities based on race, class, and gender continue to shape how victims are treated within the criminal justice system. Despite these challenges, there is a long history of women's movements fighting against apartheid and, in contemporary times, against gender-based violence (GBV), through campaigns such as #EndRapeCulture and #TotalShutdown, which have mobilised women and LGBTQIA+ (Lesbian Gay Bisexual, Transgender, Queer, Intersex and Asexual) activists to address this issue.

This case study traces how women's movements have influenced the GBV policy context over three key periods (apartheid, post-apartheid and contemporary context). It also explores the challenges in this area and how historical context and specific political moments in the country's history have shaped the gains, struggles, and backlash experienced by the sector.

Weaving stories from the margins
weave

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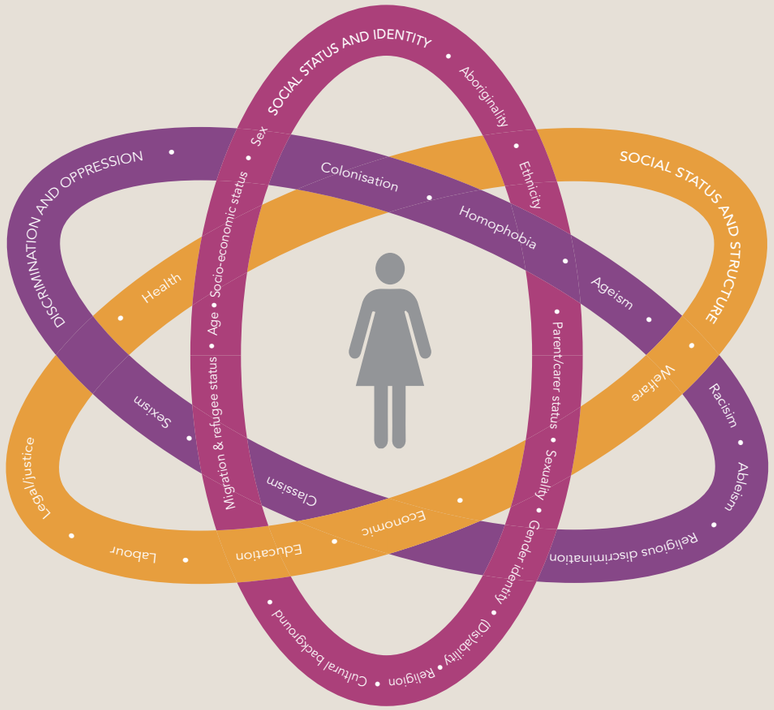
Theoretical Framework

Decolonial African feminist theory offers a framework for understanding and addressing GBV by considering intersecting factors such as race, class, age, sexuality, and geography. By recognising the material realities of different women's experiences, we can better confront the systemic inequalities that perpetuate violence against marginalised communities.

Decolonial feminism proposes that colonisation shaped the lives and experiences of women and LGBTQIA+ persons through an axis of power and that coloniality, as a 'long-standing pattern of power', continues to do so. The experiences of women and LGBTQIA+ persons remain undervalued, unrecognised, and marginalised. Decoloniality requires us to undo this long-standing pattern of power, recognise the strength in our indigenous herstories and multiple differences, and reclaim our human and spiritual values as Africans. Intersectionality is, therefore, how power, privilege, discrimination, and oppression interact with ending violence against women and girls[2].

Figure 1: Intersectionality – how power, privilege, discrimination and oppression interact with gender-based violence



Source: Ellsberg et al. 2019, Ending violence against women and girls: Evaluating a decade of Australia's development assistance. Department of Foreign Affairs and Trade (DFAT), Canberra

Women's movements and feminism

A women's movement can be defined as women organising based on their identities, taking up issues that they consider important. A women's movement can contain conservative elements within it and does not necessarily seek to question the power relations within society that drive GBV. Feminism, on the other hand, has a political dimension and is acutely aware of women's oppression and actively confronts patriarchal power.[3]

What methods did we use?

We used qualitative and quantitative methods to weave accounts of how social movements have (or have not) influenced the GBV policy and legislative landscape in South Africa. We used quantitative data from large-scale studies on forms of GBV, such as data from the National Female Homicide Study (Femicide) and the Rape Attrition Study, as well as data on sexual offences from the South African Police Service (SAPS), to highlight the magnitude of GVB by illustrating what we are learning from the data. We combined this with 15 in-depth interviews with activists involved in the fight against GBV over various periods in South Africa's history. We also conducted two focus group discussions (FGD) to explore people's experiences and perceptions of the contribution of women's movements over time. We purposely selected an intergenerational mix of FGD participants to allow for the emergence of differences in experiences and positionality. In addition, we undertook a policy analysis to develop an understanding of how GBV is addressed in the legal and policy frameworks and whether policy goals have been met.

What did we learn?

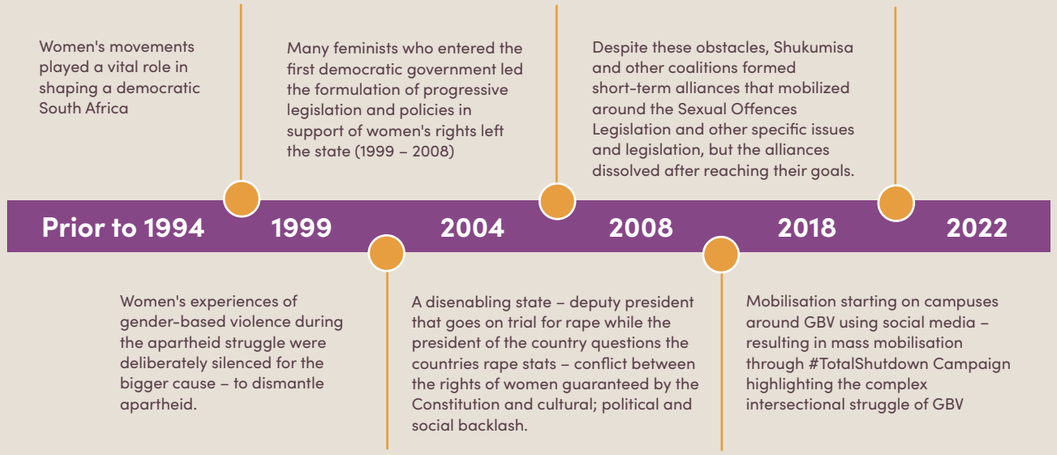


Figure 2: Overview of the contribution of women's organising and its impact on GBV policy in South Africa

The **early contributions (1950s – 1993)** of women's movements in South Africa were significant but often overshadowed by the struggle against apartheid. Women mobilised under the Federation of South African Women in the 1950s, advocating for their rights and protesting against discriminatory pass laws. However, feminism was considered a "white issue" and not part of the liberation struggle agenda. The focus on the broader fight for national liberation often came at great personal and social cost for women, as many were silenced around their experiences of GBV for the greater good of "dismantling apartheid".

In the mid-1970s, white women began organising against sexual violence, leading to the emergence of the "rape crisis movement" in South Africa. Through organisations like Rape Crisis, which were rooted in a feminist agenda, survivors of rape played a crucial role in spearheading efforts to ensure that rape survivors could access services.

In the early 1990s, multiparty negotiations for a democratic South Africa excluded women who were at the forefront of the anti-apartheid struggle. Women mobilised through the Women's National Coalition (WNC) to advocate for their rights and ensured that gender equality was enshrined in the Constitution. This led to significant legislative gains during the first democratic dispensation, which included the Choice of Termination of Pregnancy Act and the Domestic Violence Act, among others.

The **Madiba era (1994 – 1999)** saw a shift away from grassroots activism, with many feminist activists who were leaders in the liberation struggle being absorbed into government as policymakers. This left the sector with a gap in leadership but saw the rise of women-led organisations that needed funding, resulting in the professionalisation of organisations to meet funding requirements. Sector-specific networks and coalitions also emerged in response to the various socio-economic concerns facing women. Legal reform to align legislation with the Bill of Rights and the Constitution of South Africa was prioritised. This period saw the emergence of national networks and coalitions such as the National Network on Violence against Women, which organised women at grassroots level to mobilise and participate actively in the formulation of the Domestic Violence Act of 1998[4].

During the **Mbeki era (1999 – 2008)**, we witnessed an exodus of feminists from the State and saw the rise of female career politicians with no interest in promoting a feminist agenda. Issues such as HIV/AIDS denialism had a far-reaching impact on women's lives. In addition, President Mbeki publicly questioned the prevalence of rape and sexual assault. The SAPS data showed then – and continues to show – the high rates of sexual offenses that require leadership and a focused response to tackle the deeply entrenched problem of GBV. An older activist pointed out that GBV in South Africa has often been viewed as a "soft issue" by those in power, allowing the patriarchal structures to remain unchallenged. These political dynamics slowed down the resistance and fight against GBV.

The **Zuma era (2008 – 2018)** illustrated how the tensions between the gains made and the challenges faced in the fight against gendered violence are shaped by key political moments and leadership. A pivotal moment was the rape trial of Jacob Zuma in 2006, which highlighted deep-seated societal beliefs about gender roles and power dynamics rooted in colonial understandings of patriarchal masculinities. This trial demonstrated the conflict between the rights of women, which are guaranteed under the Constitution, and the cultural, political, judicial and social backlash women risk should they challenge the patriarchal order and lay claim to these rights. Despite efforts to challenge these beliefs, feminist activists faced backlash and personal consequences. The trial underscored the persistence of colonial gender norms and the need for intensified activism.

The Zuma era was characterised by a disabling state; resistance to gender transformation and patriarchal posturing that was plagued by corruption, with his political leadership being called into question. The anti-corruption campaigns led by business and civil society led to calls of #ZumaMustFall, resulting in his resignation in 2018. Patriarchal resistance not only relates to the state but also affects the service delivery by state organs such as the criminal justice system, where officials are tasked to implement policy. This lack of leadership to promote gender equality, led to a disinterest and unwillingness to ensure that justice for women is achieved. As Zuma's presidency was coming to an end (2015 – 2017), we began to see the emergence of student protests calling for the decolonisation of education, with a strong presence of women and LGBTQIA+ activists that centred gender and women's experiences of GBV, such as through the @rureference list and rape@Azania. These protests shaped the Ramaphosa era.

The **Ramaphosa era (2018 – 2023)** saw the student activism translate into national protests, through activism of feminists across the country. They mobilised around issues such as GBV and decoloniality through campaigns such as #EndRapeCulture. Feminist and queer politics played a central role in these movements, emphasising the intersectional nature of GBV. A swell of mass protests ensued, galvanising women across the country in the #TotalShutdown Movement, which demanded accountability from the president. A memorandum of 24 demands was presented to President Ramaphosa, which included the development of a National Strategic Plan (NSP) to address and eradicate GBV. The president held the first Presidential Summit on GBV in November 2018, laying the foundation for the drafting of the NSP on GBV and Femicide (GBV-F) that was adopted by cabinet in March 2020.

Despite legal protections and increased awareness, many black lesbians in South Africa still face violence and discrimination due to homophobia, transphobia, and intersex phobia. These acts of violence, including rape which is often termed "corrective rape", persist despite legislation aimed at protecting LGBTQIA+ rights. The colonial legacy of binary gender norms contributes to this violence, leaving non-binary and transgender individuals marginalised.

Efforts by advocacy groups and organisations to address this violence have been hindered by societal complexities and competing social issues. Mainstream media and political debates often overlook these concerns, leading to a lack of visibility for the challenges faced by black lesbians and other marginalized LGBTQIA+ individuals.

Zuma Rape Trial

In late 2005, Jacob Zuma, who was Deputy President of South Africa at the time and later went on to become the country's president (2009- 2018), was accused of raping HIV activist Fezekile Ntsukela Kuzwayo. Known as "Kwezi", she was a close family friend and regarded him as an uncle. The secondary victimisation of the rape survivor because of the Zuma rape trial went unchallenged by the judge or society at large. The ANC women's league and Zuma supporters outside the court sang "burn the bitch" while burning her photograph. Inside the court, she was stigmatised as a "serial rape accuser" whose evidence was not reliable. The acquittal of Jacob Zuma bolstered the view that men are entitled to rape with impunity and demonstrated the extent of the deep connections of the colonial logic to our judicial system[5]. Kwezi had to flee the country for her own safety and, in many ways, gave up her citizenship to live a life in exile[6].

#TotalShutdown Movement

The 2018 #TotalShutdown movement started as a social media campaign to mobilise women, including members of the LGBTQIA+ (Lesbian Gay Bisexual, Transgender, Queer, Intersex and Asexual) community, to take a stand on gendered forms of violence. The campaign was a direct response to the increase in media reports on femicide across the country and the high levels of GBV highlighted across campuses in the #EndRapeCulture campaign. Feminists on these social media platforms highlighted the need to mobilise women across South Africa to bring attention to the issue of GBV and femicide. Through coordinated mobilisation, a nationwide series of marches was held on 1 August 2018, with over 40 000 women marching to the Union Building alone. A list of 24 demands—to reflect the number of years since South Africa had become a democracy – was handed to the president in Pretoria. The demands included recognising GBV and femicide as a national crisis and committing to a national plan to end GBV, among others, to make South Africa safer for women, girls, and gender non-conforming people. Reflections from organisers of the march note that multiple strands and layers of activism and protest are necessary to effect change. This contemporary moment highlights the importance of mass mobilisation and large-scale protest action and holding the state accountable through the culmination in the #TotalShutdown Movement.

Additionally, the intersectionality of discrimination based on race, gender, and sexual orientation complicates advocacy efforts. There is an urgent need to break this silence and centre the voices of marginalised LGBTQIA+ individuals in discussions on GBV. Amplifying marginalised voices and promoting intersectional approaches in policy and advocacy are essential steps toward ending violence against black lesbians and other marginalised groups within the LGBTQ+ community.

Strategies to influence policy change

The struggle for gender equality in South Africa has deep roots in resistance against apartheid, shaping women's activism and policy engagement even today. Despite policy frameworks emphasising gender equality and transformation, patriarchal resistance, particularly at the highest levels of leadership, hinders meaningful change. Phrases like "gender equality" and "women's empowerment" are common in policy documents, yet they often fail to translate into tangible improvements for women, especially concerning GBV.

Multiple forms of activism are necessary to ensure policy change, as seen in the South African experience. Several tools are required to shape effective policy that results in the desired change. Engaging with various stakeholders is critical as this is the foundation for building strong coalitions, alliances, and networks that have the potential to shape policy. In contemporary South Africa, and globally, we have seen the emergence of social media campaigns such as the #TotalShutdown movement that have the ability to mobilise and spread in a viral way being brought to bear on the urgency of addressing GBV and getting the necessary attention from policymakers. However, this does not negate the need for more traditional strategies such as submissions to parliament and even litigation to achieve policy gains. According to one activist, *"the big battles were not won by sitting and making submissions alone,"* highlighting the importance of broader media communications, related campaigns and the centrality of grassroots organising.

Legislative and policy goals have been central to women's activism over the years. Different processes and layers of activism are necessary to shape policy depending on the goal, from grassroots efforts to influence policy based on lived experiences to robust societal discourse and engagement, including parliamentary submissions by a range of sectors. This requires building capacity in communities to understand the policy under review and participate meaningfully in the policy formulation process. Survivors' voices are important to ensure that policy addresses lived experiences.

Policy gains since democracy

Since the advent of democracy in 1994, South Africa has introduced a comprehensive statutory framework aimed at upholding and protecting the rights of women and children. The Constitution[7] ensures substantive equality, prioritising the rights of those who are marginalised, particularly women and children. This inclusion in the Constitution was substantially influenced by pressure from the Women's National Coalition to secure the rights of women and children[8]. South Africa has also adopted and incorporated various international legal instruments aimed at protecting women's and children rights. For example, South Africa ratified, among others, the Convention on the Elimination of All Forms of Discrimination against Women in 1995[9], and the United Nations Convention on the Rights of the Child (UNCRC) in 1989. Article 19 of the UNCRC obliges the state to "take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse ... including sexual abuse".[10] South Africa has also ratified African treaties, such as the African Charter on Human and Peoples Rights of 1986 which specifically addresses the complexities of violence against women (VAW), while the African Charter on the Rights and Welfare of the Child (ACRWC) addresses violence against children (VAC) in Africa. The ratification of these international and regional agreements thus commits the South African government to addressing both VAW and VAC, and reporting to the United Nations and the African Union on the country's progress in this regard. This represents an important development in realising women's and children's rights with respect to the principles of gender equality and non-discrimination, while for children, the issues of protection are highlighted. This has also meant that legislation and policies had to be aligned to both the Constitution and these international rights frameworks.

Table 1: Laws and policies advancing gender equality

Choice on Termination of Pregnancy Act (1996)[11]	Promotes reproductive rights and extends freedom of choice by affording woman and girls the right to choose whether to have an early, safe and legal termination of pregnancy according to her individual beliefs.
Domestic Violence Act (1998)[12]	Defines domestic violence and provides a mechanism for victims to obtain a protection order, for the arrest of the perpetrator, and for police protection to prevent further domestic violence. It requires the police to refer women and children to shelters. The Victims Charter spells out the rights of victims.
Firearms Control Act (2000)[13]	Regulates the possession of firearms. A civilian can get a license if they have a valid competency certificate and do not have a history of violence or a substance-abuse problem. But ownership of handguns and keeping guns at home is permitted.
Criminal Procedure Act , the Criminal Law (Sentencing) Act[14,15]	The criminal law governs procedures for arrest, granting of bail, court processes and minimum sentencing for violent offenders. Whilst these acts also provide some protective measures for vulnerable victims and witnesses, women must testify in open court and the evidence of a single witness is still treated with caution. Furthermore, English is the language of record in the courts and is used when police take statements, irrespective of the language of the complainant. Forms, proceedings, and orders are all in English.
Sexual Offences and Related Matters Act (2007)[16]	Criminalises sexual abuse and rape and guides the arrest, prosecution, conviction and sentencing of perpetrators. The act defines sexual crimes gender-neutrally to apply to both men and women, recognises that rape can occur in marriage, and provides for rape survivors to access to post-exposure prophylaxis to prevent HIV infection. In 2013, the act was amended to provide for specialised sexual offences courts.
Children's Act (2005)[17]	Provides for a range of prevention and early intervention programmes to prevent violence including support for positive parenting. It also includes a system to identify, refer, support, care for and rehabilitate children who have suffered violence, where provinces must provide these services.
National Strategic Plan on Gender-Based Violence and Femicide (2020)[18]	A multi-sectoral strategic framework to guide the national response to GBVF that mentions the LGBTQIA+ community. It is organised around six pillars aimed at prevention of GBV; strengthening the criminal justice response; providing support, care and healing to survivors through strengthening leadership and accountability and improving coordination; research and building information systems. Recognises that a gender transformative approach to parenting, land reform, economic empowerment and violence prevention is necessary. It also includes training for key service providers.
Traditional Courts Act (2022)[19]	This act regulates the structure and functioning of traditional courts. It is based on the principles of restorative justice and reconciliation and identifies patriarchy as systemic unfair discrimination, institutionalises measures to promote the inclusion of women as members of the court, and specifies that women and men as parties should be afforded full and equal participation in proceedings.
Victims Support Services Bill [20]	Draft legislation to provide for psychosocial services for victims of GBV, ensure the supply of shelters and other support services.
Other laws	A range of other crimes for example, harassment and online stalking are established by dedicated laws including the Protection from Harassment Act[21], the Cyber Crimes Act[22], and the Films and Publications Act[23]. The Prevention and Combatting of Trafficking in Persons Act[24] criminalises all acts that support the trafficking of women and children.

Conclusion

Women's struggle for gender equality in South Africa has been embedded in the fight against apartheid, and this has shaped women's organising and engagement with policy making, even in contemporary South Africa. The ability of feminist or women's movements to influence policy is shaped by political moments and leadership at any given time, and this has influenced both the challenges faced and victories achieved concerning gendered violence and the shaping of policy by women's movements over time.

Leadership (by the President) at the highest level is needed to address the deep-rooted social norms that underpin GBV. The lack of political will and backlash against feminist activism in an effort to uphold traditional patriarchal values creates an adversarial environment where gender transformation merely consists of words in policy documents, without shifting women's experiences. Phrases such as "gender equality", "women's empowerment" and "gender transformation" are commonplace across policy documents. But these policies have not resulted in a change in women's lived experience of safety from violence or how the system (criminal justice, health and social development) supports women and LGBTIQ+ persons who have experienced gendered violence. There is a disconnect between policy and the right to equality and to be free from violence in the home and community, which remain mere "paper rights" unless gender beliefs, attitudes and behaviours change.

Sexual violence and femicide have been at the heart of the concerns of the #TotalShutdown Movement in South Africa, and young feminist activists who have led this movement have located it squarely as a complex intersectional struggle. Intersectionality, as a complex reflection of the multiple violences that shape women's lives, challenges the way resistance (and/or) disruption is practised, and the way a regulated gender sector becomes co-opted. Activism has to be multi-faceted, and different moments call for different activisms, but at its core it has to be intersectional.

The significant policy gains we have made have had limited effect on wider societal norms on gendered violence, with levels of violence still extraordinarily high. Poor black women still struggle to access justice. This is despite state-driven institutional mechanisms for gender equality, such as the Commission for Gender Equality, and a suite of laws and policies that not only introduced greater equality and rights within the family (including within customary law) but also recognised women's bodily autonomy and provided for positive measures to support women's employment.[25] We urgently need to address the structural nature of women's oppression and the way that gendered violence is perpetuated within it.

References

1 Morrell R, Jewkes R, Lindegger G. Hegemonic masculinity/masculinities in South Africa: Culture, power, and gender politics. *Men and masculinities.* 2012;15(1):11-30. 2 Ellsberg M, Fulu E, Warner X, Potts A, Dixit D, Ullman C. (2019). Ending violence against women and girls: evaluating a decade of Australia's development assistance. 2019. 3 Hassim S. Gender, social location and feminist politics in South Africa. *Transformation.* 1991;15:65-82. 4 Usdin, S., Christofides, N., Malepe, L., & Maker, A. The value of advocacy in promoting social change: Implementing the new Domestic Violence Act in South Africa. *Reproductive Health Matters*, 2000;8(16),55-65. 5 Ndlovu-Gatsheni, S. J. (2016). Decolonizing the university and the problematic grammars of change in South Africa. Paper presented at the keynote address delivered at the 5th annual students conference on decolonizing the humanities and social sciences in South Africa/Africa. 6 Tlhabi R. (2017). *Khwezi: the remarkable story of Fezekile Ntsukela Kuzwayo.* Jonathan Ball Publishers. 7 Republic of South Africa. *Constitution of the Republic of South Africa. Act 108 of 1996.* 8 Barkley S. A crisis of violence against women: Has South Africa fulfilled its obligations in terms of the Convention on the Elimination of All Forms of Discrimination against Women? *Acta Juridica.* 2020;(1):165-95. 9 UN General Assembly. *Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, Treaty Series*, Vol. 1249, p. 13. 18 December 1979. 10 Committee on the Rights of the Child (2011) *General Comment No. 13. The rights of the child to freedom from all forms of violence. CRC/C/GC/13.* Geneva: United Nations. 11 Republic of South Africa. *Choice on Termination of Pregnancy Act 92 of 1996.* 12 Republic of South Africa 1998 *Domestic Violence Act 116 of 1998.* 13 Republic of South Africa. *Firearms Control Act 60 of 2000.* 14 Republic of South Africa. *Criminal Procedure Act 56 of 1955.* 15 Republic of South Africa. *Criminal Law (Sentencing) Amendment Act 38 of 2007.* 16 Republic of South Africa. *Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007.* 17 Republic of South Africa. *Children's Act 38 of 2005.* 18 Republic of South Africa. (2020). *The National Strategic Plan on Gender Based Violence and Femicide.* 19 Republic of South Africa. *Traditional Courts Act 9 of 2022.* 20 Republic of South Africa. *Victim Support Services Bill of 2019.* 21 Republic of South Africa. *Protection from Harassment Act 17 of 2011.* 22 Republic of South Africa. *The Cyber Crimes Act No. 19 of 2020.* 23 Republic of South Africa. *Films and Publications Act No. 11 of 2019* 24 Republic of South Africa. *The Prevention and Combatting of Trafficking in Persons Act 7 of 2013.* 25 Vetten L. (2013). Deserving and Undeserving Women: A case study of policy and legislation addressing domestic violence. Unpublished Master's dissertation, University of the Witwatersrand.

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