



# Language as a barrier to services for victims of violence

## RESEARCH BRIEF

### Introduction

There is increasing evidence of the interconnections of intimate partner violence and violence against children (VAC), as they share the same drivers, co-occur in the same households and drive an intergenerational cycle of violence (Mathews et al., 2021). Both forms of violence lead to similar health outcomes including psychological outcomes that influence this intergenerational transmission of violence, through the shaping of gendered social norms that drive violence across generations (Jamieson et al., 2018). Whilst women need services to support their own recovery, work through their trauma and regain their independence, many women come to shelters with their children during this process (Watson & Lopes, 2017). Their children have likely been exposed to or experienced violence in the home, which in turn increases children's risk for violence perpetration and victimisation later in life (Jamieson et al., 2018). As such, an integrated set of services is required that not only increases access to justice for women and children but also address the needs of both women and children to prevent further victimisation and break the intergenerational cycle of violence. Language is key to access services and the provision of services. Critically, it is also central to African people's self-definitions and has a key role in conveying the meaning of experiences (Titi, 2021).

Little is known about what women and children want from services or how they experience them, especially in rural African communities. Service providers often do not identify the link between experiences of violence by the mother and their children as co-victims, and as a result services are siloed (Nagia-Luddy & Mathews, 2011). Over the past five years, government has made high-level commitments to end gender-based violence (GBV) and to support victims. To investigate if services have become more integrated, the Children's Institute, in partnership with Masimanyane Women's Rights International, conducted an exploratory study *Closing the Gaps* (Titi et al, 2022). The study sought to understand how services are delivered in two communities in the Eastern Cape (Buffalo City and Gcuwa) and to start a dialogue about what is required to deliver culturally appropriate services for women and children. Through a series of focus group discussions, community dialogues and

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individual sessions with children, we gained insights into what women and children want from services and their experiences of accessing services. We found that language is a critical tool for understanding how women and children access services, and convey and describe their experiences of violence.

## The use of language as strategy to oppress Black South Africans during Apartheid

To understand the role of language and culture in service provision for women and children, the historical context of colonialism and Apartheid must be acknowledged (Cakata & Segalo, 2017). Colonial violence, slavery, and migrancy laws preceded the inhumane treatment of Black South Africans during Apartheid. Social problems, with their roots in Apartheid policy, persist to this day and includes poor living conditions, overcrowding, and sub-standard service delivery which continue to drive GBV (du Toit, 2014; Gqola, 2010). On top of this the social, economic, and spatial segregation of services continue to marginalise Black South Africans (Maylam, 1995; Strauss, 2019) and hinder access to justice. Language also played a critical role during Apartheid, where indigenous African languages were devalued, and English and Afrikaans were used as the official languages as a deliberate discriminatory political strategy to marginalise the Black population groups and restrict access to services (Rudwick, 2008).

## The right to culturally and linguistically appropriate services

The Constitution of South Africa now recognises twelve official languages (section 6) and enshrines the rights of every citizen to use linguistic and cultural practices of their choice (section 30). It recognises the historically diminished use and status of the indigenous languages and affirms that “the state must take practical and positive measures to elevate the status and advance the use of these languages” (section 6(2)). National government and each provincial government must use at least two official languages, considering amongst other things “usage, practicality and expense”. As isiXhosa is spoken as a first language by more than three quarters of the population in the Eastern Cape (StatsSA, 2016), we expected to find that service

providers in the province would use isiXhosa widely to maximise access to services.

## The use of first language helps build rapport and facilitates healing

Social service providers reported mainly supporting clients from low socio-economic groups, describing them to be mostly isiXhosa speaking, with a few English speakers. The staff speak these languages and services are offered in the language of the client’s choice. A few foreign nationals access services and bring their own translators, or are offered services in English, the number of foreigners is low but growing. In the interviews, service providers put significant value on the quality of their communication with clients and highlighted the importance of good interviewing and empathic skills for building rapport with victims of violence. Additionally, women and children pointed to the freedom and comfort that speaking their home language brings.

*“It is easier for one to express themselves (ourselves) in isiXhosa when feeling hurt”*  
[Child Participant].

## The use of English in the criminal justice system

Communication – being heard and having the ability to express one’s experiences – are important to obtain justice. Despite the constitutional commitment to respect linguistic and cultural diversity, English remains the official language of record in court proceedings and this has effects across the entire criminal justice system by creating barriers that limit access to justice.

### Reporting incidents and statements

Participants reported that police officers take their oral statements in isiXhosa, and then translate those statements to English while writing them. Thus written statements produced are often distorted. The distortion reportedly arises from the fact that there are words and phrases which do not translate easily. Another major challenge is that women are culturally prohibited from using specific words related to names of in-laws, intercourse, and body parts (e.g., penis, testicles,

vagina) due to cultural codes of respect and moral values ascribed for women. Euphemisms are used in reference to male genitalia, for example, a woman may use the term *unduku ende kaTata* to refer to a penis, which translated literally means “father’s long stick”. Therefore, skilled translation requires interpretation to convey meaning, but police officers have been reported to simply translate each word literally, rendering the statements nonsensical. Translation poses additional challenges such as making it difficult for women to fact-check the statements. As such, translated accounts can be thrown out before they reach the court. Worryingly, study participants expressed their frustration over court applications being rejected when written in isiXhosa because their testimonies were deemed to be incomprehensible when translated into the English language.

Further examples of challenges include the culturally specific articulation of relationships, for example, the term *uSisi* is translated as “sister” in English, however, the word *uSisi* can also be used in reference to a “mother” in cases where the child was raised by her grandparents and did not have a maternal relationship with their biological mother. These examples show how important it is to understand the nuances of language and culture, and the complexity of how Africans experience their relationships. This has implications for reporting violence and testifying in court where English convention defines familial relationships strictly in biological terms. In comparison with isiXhosa, participants reported English to be too polite and inexpressive, and consequently devoid of the intensity of the original statement, sanitising the whole account.

### Proceedings

*“I’m based at a court, all of the forms here are in English. The most vulnerable people that come to ask for the service here at a court are the illiterate people and the elderly people”*  
[Social Service Provider]

A resolution by the Heads of Court in March 2017 made English the only language of record in the country’s courts, so rather than using isiXhosa - the most widely spoken language in the Eastern Cape - proceedings are conducted in English. While women and children can

speak isiXhosa, they have to use an interpreter even though the court presiding officer, the court clerks, and the police all speak isiXhosa too.

### Protection orders

According to the police (2014), “a protection order aims at preventing the reoccurrence of domestic violence or sexual harassment by stating what conduct the alleged offender must refrain from doing. If he/she complies with the protection order, the complainant will be safe. If the respondent contravenes any stipulation of the protection order, he/ she may be arrested” (emphasis added). For a protection order to have any effect it must be understood by both the victim and the perpetrator. However, when the protection order is provided in English, it is not well understood by either the victim or the perpetrator.

The community dialogues highlighted that communities do not understand the application process or the function of protection orders. Support service providers noted that women open a case against perpetrators and apply for a protection order but then do not complete the whole process because they do not understand all the steps involved for the order to be finalised. And respondents complained that neither the court staff nor the police explain the eviction protocol to victims, so that they know what to expect. As a result, women serve the protection orders to perpetrators themselves without the police to officially evict a perpetrator from the house. This places women and children at increased risk from men’s violence:

*“I have 20 injuries on my body, despite the protection order”*  
[Woman, Focus Group Discussion].

## Conclusion

During Apartheid, indigenous African languages were devalued, and English was used as the official language as a deliberate discriminatory political strategy to marginalise Black population groups and restrict access to services (Cakata & Segalo, 2017). The continuing use of English in the criminal justice system not only creates a barrier to effective communication but denies black women and children access to justice – violating the rights not just to culture and language, but to dignity,

justice, healing and safety. Critically, when considering the country's colonial and Apartheid history, the use of English is tied to a history of deliberate exclusion. Hence the discussion around language is not simply about clear expression and understanding but rather also about a sense of exclusion and that internalised inequality can act as a barrier to services.

There is a need for services to be accessible and delivered in a linguistic and culturally sensitive manner that respects and affirms the rights of the women and children who access them. However, the requirement that English is the language of record in the court has effects across the criminal justice system. The promotion of indigenous languages would not only serve a practical purpose but would redress invisible barriers that exclude African women and children from spaces and services that they require.

## The way forward

Language practicality for ease of court processes, such as documentation for instance, should not take precedence over indigenous women's and children's access to justice and quality service provision to them. Witness statements and affidavits should be written in the home language of the complainant to allow her to check the accuracy of what has been recorded. Court proceedings should also be conducted in one of the indigenous languages and the written record translated. This would prevent meaning from getting lost in translation and help ensure that services are culturally sensitive. Interim and final protection orders and arrest warrants should be in two languages and explained verbally to women to ensure that they understand their rights and who to get help from if they experience threats or violence.

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