



CREATIVELY COMBATting GENDER BASED VIOLENCE

8 December 2021

Department of Women, Youth and Persons with Disabilities

**Attention: Chief Director: Governance, Transformation,
Justice and Security, Ms Esther Maluleke**

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Dear Madam

THE EMBRACE PROJECT NPC'S COMMENTS ON THE COMPREHENSIVE NATIONAL GBVF PREVENTION STRATEGY AND FRAMEWORK OF ACTION

1. The Embrace Project appreciates the opportunity to comment on the third draft of the Comprehensive National GBVF Prevention Strategy and Framework of Action, dated 22 November 2021 (Prevention Strategy).
2. The Embrace Project is a registered non-profit company which uniquely combines art and advocacy to "creatively combat" gender based violence and femicide ("GBVF") in South Africa. We raise funds for grass-roots organisations combating GBVF in their communities through the sale of artwork generously donated to us by various South African artists and creatives. We also create awareness around GBVF (its prevalence and causes) through our social media presence while simultaneously working at changing the narrative around violence and disempowerment. We do this through launching prevention campaigns, and by participating in the development and amendment of legislation, national policy and strategies impacting GBVF, such as in the current instance.

Directors: Leanne Berger and Lee-Anne Germanos

Purpose

3. The Prevention Strategy aims to address the root causes of GBVF in South Africa as a proactive, as opposed to a reactive, measure, with a long term vision of breaking the cycle of violence and eradicating the perpetration of GBVF.
4. The Embrace Project aligns itself entirely with this approach, and in fact articulates much of the some points raised in the Prevention Strategy in a [written submission](#) made to a Parliamentary Work Stream on GBVF in the Western Cape on 17 June 2020. We have called this submission our 'blueprint' for eradicating GBVF in South Africa, and conduct our work according to it.

Substantive comments

5. We commend the collaborative for the development of such a comprehensive strategy and framework of action in the space of a year. We will only raise a few points and suggestions that we hope will be valuable to the Prevention Strategy.
6. We will raise our comments according to the order and structure of the Prevention Strategy. We will be commenting on:
 - 6.1. Background on GBV;
 - 6.2. Stakeholders: Roles and Responsibilities;
 - 6.3. Communication Strategy: GBVF; and
 - 6.4. Introduction to the Framework of Action.
7. *Background on GBV*
 - 7.1. We note that, when listing the various forms of GBV under the subheading 'Difficulties', obstetric violence was omitted and is not catered for anywhere in the Prevention Strategy. Obstetric violence is violence that occurs against pregnant or birthing

Directors: Leanne Berger and Lee-Anne Germanos

individuals and includes physical, emotional, psychological, and even sexual violence committed by healthcare practitioners, such as doctors, nurses and midwives.¹

7.2. Obstetric violence is considered by the UN Special Rapporteur on violence against women to be both widespread and systematic in nature. This is based on a [report](#) that she released on 11 July 2019. In 2015, the World Health Organisation came out in condemnation of this form of GBV, stating that it was “outright physical abuse, profound humiliation and verbal abuse, coercive or unconsented medical procedures (including sterilization), lack of confidentiality, failure to get fully informed consent, refusal to give pain medication, gross violations of privacy, refusal of admission to health facilities, neglecting women during childbirth to suffer life-threatening, avoidable complications, and detention of women and their newborns in facilities after childbirth due to an inability to pay.”

7.3. The reason that obstetric violence has not featured in national prevention strategies or legislation before is because violence against women in childbirth is so normalised that it is not considered violence against women, according to the United Nations Population Fund. Silence on this serious issue is also compounded by the fact that most women who experience this form of GBV are women from low socio-economic statuses. There has now, however, been an upsurge in reporting on the issue.²

7.4. Due to its omission, we would recommend that the collaborative consult more extensively with the Medical Research Council, the Centre for Applied Legal Studies and Women Affected by Mining Communities United in Action on the issue of obstetric violence in order to properly cater for it in the Prevention Strategy. We will also make further recommendations involving both the Department of Health, and the Health Professions Council of South Africa (HPCSA), on this issue below.

¹ Sheena Swemmer ‘Obstetric violence: A war against women that is being waged in the shadows’ Daily Maverick (28 November 2021) available at [https://www.dailymaverick.co.za/opinionista/2021-11-28-obstetric-violence-a-war-against-women-that-is-being-waged-in-the-shadows/?tl_inbound=1&tl_groups\[0\]=80895&tl_period_type=3&utm_medium=email&utm_campaign=First%20Thing%20Monday%2029%20November%202021&utm_content=First%20Thing%20Monday%2029%20November%202021+CID_682bf46d04dd9b555ab37f2d831b56f7&utm_source=TouchBasePro&utm_term=Obstetric%20violence%20A%20war%20against%20women%20that%20is%20being%20waged%20in%20the%20shadows](https://www.dailymaverick.co.za/opinionista/2021-11-28-obstetric-violence-a-war-against-women-that-is-being-waged-in-the-shadows/?tl_inbound=1&tl_groups[0]=80895&tl_period_type=3&utm_medium=email&utm_campaign=First%20Thing%20Monday%2029%20November%202021&utm_content=First%20Thing%20Monday%2029%20November%202021+CID_682bf46d04dd9b555ab37f2d831b56f7&utm_source=TouchBasePro&utm_term=Obstetric%20violence%20A%20war%20against%20women%20that%20is%20being%20waged%20in%20the%20shadows)

² Nonkululeko Mbuli and Rumbi Goredema Görgens ‘The nurses stood around her laughing’: It’s time to raise the alarm on obstetric violence’ News24 (7 December 2021), available at <https://www.news24.com/parent/pregnant/birth/the-nurses-stood-around-her-laughing-its-time-to-raise-the-alarm-on-obstetric-violence-20211207>.

Directors: Leanne Berger and Lee-Anne Germanos

7.5. We would also like to point out that when discussing barriers to reporting sexual offences, at page 18 of the Prevention Strategy, mention was only made of victims' lack of confidence in the criminal justice system. It also spoke of their fears. However, no mention was made of the secondary victimisation, neglect, and, sometimes, abuse experienced by victims at the hands of agents of criminal justice system institutions, which include the police, prosecutors, defence counsel, court staff, and judicial officers. This speaks to the urgent need for sensitisation training, victim-centric policies in and functional accountability mechanisms for these institutions.

8. *Stakeholders: Roles and Responsibilities; and Introduction to Framework to Action*

8.1. We have combined our comments and recommendations for the Prevention Strategy section on Stakeholder Roles and Responsibilities, with the section on the Introduction to Framework to Action, because our recommendations on the stakeholder roles and responsibilities translate into the same or similar activities to action for purposes of the Framework. We will now comment and make recommendations per stakeholder.

8.1.1. South African Police Services (SAPS):

8.1.1.1. We emphasise the need to provide for compulsory and regular sensitisation training for all members of SAPS when assisting victims of sexual violence, and recommend its express inclusion in the Prevention Strategy. Section 66(1)(b) of the Criminal Law (Sexual and Related Matters) Amendment Act no 31 of 2007, in fact, makes it a legal requirement to undergo such training which appears to be lacking. Sensitisation training is the most effective method for removing secondary victimisation – one of the objectives of the Prevention Strategy. We recommend that such training be provided by non-governmental victim support service providers. This will both foster relations between the government and non-governmental sectors, and provide non-governmental victim support service providers with an additional income stream to continue to assist victims of sexual violence. According to a 2016/17 crime survey, only 35.5% of sexual offences are reported to the

South African Police Services.³ Of the 35.5% of sexual offences reported, between 40%-60% of them are withdrawn by either SAPS or the National Prosecuting Authority, predominantly on the basis that the charges are 'false'.⁴ There is a widely held view by police personnel that women lie about rape to, for example, blackmail their ex-lovers into paying maintenance.⁵ Sensitisation training would aim to address these issues.

- 8.1.1.2. There exist policing protocols and guidelines on how to assist victims of sexual violence. We recommend that these protocols and guidelines should be published in the Republic's eleven official languages and made publically visible in each police station. That will assist with police accountability.
- 8.1.1.3. We also recommend that an information sheet containing the details of victim support services and their location (relative to the location of each police station respectively) should be made available to victims of sexual violence at every police station in terms of the Prevention Strategy. We recommend that they be provided to the victims by the attending police official as part of the policing protocols and guidelines.
- 8.1.1.4. We recommend that the Prevention Strategy provide for the employment of a psychologist or social worker at each police station to assist members of SAPS when dealing with victims of violence. Alternatively, Thuthuzela Care Centres should be strategically located near or on the same premises as police stations. Further, we recommend that Family Violence, Child Protection and Sexual Offence units, which are specialised to deal with the reporting of a sexual offence, as well as in offering assistance and providing information to the victim, be placed at every police station.
- 8.1.1.5. We also recommend that SAPS run a public education campaign around the abovementioned protocols and guidelines. The public education

³ 2016/2017 Victims of Crime Survey in Fourth Respondent's Submission at para 35.2.3 in *Levenstein and Others v Estate of the Late Sidney Lewis Frankel and Others* (CCT170/17) [2018] ZACC 16.

⁴ 2000 report by the Information Analysis Centre in *L Artz and D Smythe, 'Should we consent: Rape Law Reform in South Africa' Juta 2008 at pg 200.*

⁵ *L Artz and D Smythe, 'Should we consent: Rape Law Reform in South Africa' Juta 2008.*

campaign should also be aimed at raising the profile of the Civilian Secretariat for Police to encourage the public to hold the members of SAPS accountable.

8.1.1.6. Lastly, we recommend that the Indices provided for in section 15G(3) of the Criminal Law (Forensic Procedures) Amendment Act be properly implemented and maintained to ensure more efficient and effective DNA analyses of suspects, which would lead to increased convictions.

8.1.2. Department of Justice and Correctional Services, Office of the Chief Justice and the National Prosecuting Authority (NPA):

8.1.2.1. We recommend that the NPA, like SAPS, develops protocols and guidelines when dealing with victims of sexual violence, if they do not already exist. A directive requiring the opposition of bail by prosecutors for all serious sexual offences should be issued. We also recommend that there be a complaints body – separate to Parliament – that acts as an accountability mechanism for the NPA.

8.1.2.2. We reiterate the necessity for sensitisation training to be made compulsory and conducted on a regular basis for legal and correctional services personnel, the NPA, court officials and the judiciary. Section 66(2)(b) of the Criminal Law (Sexual and Related Matters) Amendment Act makes provision for such training for the NPA. As with SAPS, we recommend that the non-governmental organisations provide the training.

8.1.2.3. We note that, in November 2019, a Kwa-Zulu Natal magistrate, Kholeka Bodlani, sentenced a father who was convicted of having raped his 11 year old daughter to a wholly suspended 5 year sentence because he was a ‘good father’. In September 2018 the Western Cape High Court’s Judge Binns-Ward found, in mitigation in the sentencing of a rape accused, who had repeatedly raped a child, that the accused had a history of prior consensual intercourse with the victim who was 13 years old; there was no actual violence used other than *forced* sexual intercourse; and that the

Directors: Leanne Berger and Lee-Anne Germanos

accused stopped his assault when the victim started bleeding.⁶ For these reasons the learned judge held, in dissent, that the accused's sentence should be reduced. Such findings and sentences are grotesque miscarriages of justice that should not exist at the highest level of our criminal justice system in this day and age. They can only be corrected with dedicated training and effective accountability mechanisms.

8.1.2.4. We recommend that special emphasis be placed on sensitisation training for officials employed at Sexual Offences Court, and that victim support services be made available at each such court. We recommend that the Department of Justice and Correctional Services partner with private victim support service providers to ensure that this is provided.

8.1.2.5. Lastly, we recommend that the Department of Justice and Correctional Services reform the rules of evidence and the trial system for sexual offences in order to make them more victim-centric. We recommend that the Department look at Rule 72 of the International Criminal Court Rules of Procedure and Evidence. Rule 72 regulates the admissibility of evidence by an accused on a victim's consent in a case of sexual violence. Unlike in domestic courts, such evidence (which is used as a defence by the accused) may not be adduced during the trial without warning. The Court is required to weigh up the degree of the probative value of the evidence against the prejudice that it may cause the victim before considering it admissible.

8.1.3. Correctional Services and the Judicial Inspectorate for Correctional Services (JICS):

8.1.3.1. We note the emphasis on rehabilitation programmes for inmates in the Prevention Strategy. We however recommend that the rehabilitation programmes applied, particularly for sex offenders, be evidence-based so as to ensure prevention against the perpetration of the same crimes upon release.

⁶ *Zamla v S* (A207/2016) [2018] ZAWCHC 130 (25 September 2018) at paras 1 to 44.

8.1.3.2. Correctional services facilities are some of the most violent environments in our country. They are gang run and there also exists an unbridled abuse of power by correctional services authorities. We do not believe the prison system to have been reformed since the dark days of Apartheid, which informs the culture of violence that exists therein. We therefore recommend that Correctional Services works with JICS to develop prison reform programmes which will rid the facilities of violence, abuse and gangsterism, and turn them into centres for rehabilitation instead.

8.1.3.3. We strongly recommend that the perpetration of sexual violence in Correctional Services facilities, including holding cells in police stations and awaiting trial cells in courts, by both inmates and persons in positions of authority, must be addressed in the Prevention Strategy. The perpetration of sexual violence in these circumstances is particularly serious because it is aggravated by the fact that the victim's constitutional right to freedom of movement has been reasonably and justifiably limited. The burden of protection, therefore, lies solely with the state. When sexual violence is perpetrated while in detention harsher punishments should be meted out. When these crimes are committed by inmates (who may already have life sentences) a sentence of life imprisonment is clearly an insufficient deterrent as they are continuing to perpetrate the most heinous of crimes while incarcerated – often being aware that they are also infected with HIV/AIDS. Sexual violence is often perpetrated against new inmates as part of perverse prison gang initiation practices. The commission of such crimes by inmates is a strong indication that such an offender is not capable of being rehabilitated, and is a danger, not only to society, but also to other inmates. In such instances, we recommend a punishment harsher than a life sentence for a conviction of rape or murder when committed in any prison cell. We believe that the same fate should befall persons in positions of authority who abuse their power to perpetrate sexual violence against an incarcerated victim.

8.1.4. Department of Basic Education, and Department of Higher Education and Training:

Directors: Leanne Berger and Lee-Anne Germanos

- 8.1.4.1. We strongly agree with the Prevention Strategy that violence is a cycle, and that early intervention programmes are core to the prevention of GBVF. We also note the mention of schools based prevention programmes at activity 2.1.1 of the Framework of Action on page 80 of the Prevention Strategy. In addition to the programmes mentioned in the Prevention Strategy, we are also aware of a programme run by First for Women called '[Turning 16 days of light into 365 days of action](#)' that is being rolled out in primary and high schools in Diepsloot, Gauteng.
- 8.1.4.2. We would additionally like to recommend that the Departments consider developing specialised curricula for girls and boys, respectively, aimed at eradicating harmful practices, beliefs, attitudes and stereotypes which perpetuate GBVF, and violence in general. We recommend that the curricula address consent, bodily autonomy and appropriate inter-sex conduct. We also make specific reference to the Comprehensive Sexuality Education curriculum in that regard. The suggested specialised school curricula could form part of the Life Skills and the Life Orientation curricula at school. Educators teaching these curricula would also require specialised training, which we also recommend be provided by non-governmental organisations.
- 8.1.4.3. For purposes of protecting learners, we recommend that provision be made for the rigorous vetting of educators. Educational institutions should guard against educators who have had allegations or charges of sexual misconduct or impropriety raised against them, but have circumvented the finalisation of a determination of those allegations or charges by, for example, resigning prior to the completion of a disciplinary process. When checking the references of educators prior to their employment, educational institutions should be required to enquire about all non-finalised allegations and charges raised against educators. Alternatively, a new national register should be developed specifically for allegations and/or charges of sexual misconduct/impropriety raised against educators. The register should record whether or not the matter was finalised. If finalised, the register should state what the outcome was, and if not finalised, it should state why not. The incidents of sexual abuse at

Directors: Leanne Berger and Lee-Anne Germanos

schools are alarming and it is largely due to predators, under the guise of educators, not seeing their disciplinary proceedings through, and then starting the abuse anew in a different educational institution.

8.1.5. Department of Health and HPCSA:

8.1.5.1. As mentioned previously, obstetric violence is a form of GBVF that has not been addressed in any national policy or legislation. For that reason we recommend that the Department of Health, together with the HPCSA, investigate the prevalence of such violence in the healthcare sector; develop policies and training programmes to address the issue, and discipline healthcare professionals; as well as draft and introduce legislation recognising and criminalising obstetric violence.

8.1.6. Department of Social Development:

8.1.6.1. We appreciate the Prevention Strategy's recognition of the need for more social workers and increased provision of psycho-social services, as well as the involvement of community development workers. The only recommendation that we make is that the Prevention Strategy should specifically prioritise the provision of these services to violence prone communities, and listed GBVF hotspots for the short-term. An additional recommendation is that hotspots of different violence categories be identified, and the requisite services be dispatched there.

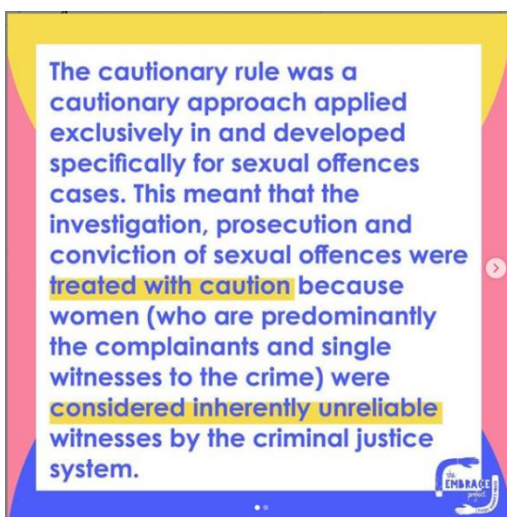
8.1.6.2. We would also recommend that the Department of Social Development look to partnering with civil society organisations that already have programmes and services running in particular communities. For the informal settlement of Alexandra, we would recommend that the Department approach [Aqisanang Domestic Abuse and Prevention Training \(ADAPT\)](#) which is already running established men's and youth programmes in that community. There are also non-profit organisations, such as [Fight Back SA](#), that provide free self-defence classes to women and girls in violence prone communities across South Africa.

Directors: Leanne Berger and Lee-Anne Germanos

9. *Communication Strategy: GBV; and Introduction to Framework to Action: Advocacy, Activism and Relationship Building, and Stream 5*

9.1. Our comments on these sections of the Prevention Strategy are an offer of our organisation's services to assist in the fulfilment of its objectives.

9.2. As stated in the introduction to our organisation, we use a combination of art and advocacy to combat GBVF. For that reason our organisation consists of illustrators, graphics designers, lawyers and sociologists. The public messaging, advocacy and activism that you are looking to push in this section of the Prevention Strategy is messaging, advocacy and activism that we have already developed and deployed on our [social media](#) platforms (and continue to do). A big part of our daily work is research on the root causes and prevalence of GBVF. We reduce that research to bite-sized bits of information for public consumption, which is then published on our social media platforms as part of our public education campaign. We believe that the work that our organisation is already doing is exactly aligned with the execution of the Communication Strategy and the Framework to Action. We, therefore, believe that if we were to partner on this part of the strategy, The Embrace Project could assist in producing more messaging, or use the messaging that it has already been produced, to roll it out on a more national scale. The following are some examples of the quotes, facts and statistics (messaging) that we have published on our social media platforms (referred to as infograms):



Directors: Leanne Berger and Lee-Anne Germanos



9.3. Another campaign that we believe aligns with the Communication Strategy's objective and Stream 5 of the Framework to Action's activities in challenging the patriarchal narrative, and toxic masculinity, while promoting positive masculinity, is a campaign that we are currently running during these 16 Days of Activism against GBV, called the [Real Man Campaign](#). We partnered with South African artist, Shekhinah's, organisation, Rosefest, to produce a series of promotional videos encouraging men to challenge the toxic masculine understanding of the term a 'real man' by asking men to record themselves stating, in one sentence, what a real man is not; and to promote positive masculinity by asking men to record themselves saying, in another sentence, what they believe a 'real man' to be.⁷ The purpose of the campaign is twofold: 1) to draw men into the conversation on GBVF, because, although womxn are predominantly the victims, men are predominantly the perpetrators so real change starts with them; and 2) to promote behavioural change among the male population by having men encourage their peers to behave differently. Contributors to this campaign have included South African celebrities such as J Something from Micasa and Jesse Clegg. The intention is to turn the responses that we receive to the campaign into 365 Days of Action, with spin-off men's programmes.

⁷ Please click on [Calling All Men, What is a 'Real Man', A Real Man is Emotional, Time for Change and Stand Together](#) for the promotional videos that we have released on the campaign.

Directors: Leanne Berger and Lee-Anne Germanos

General comments

10. As a final comment, we note that the Centre for the Study of Violence and Reconciliation was commissioned by the then Department of Safety and Security to produce a report on the factors contributing to South Africa's high rate of violent crime.⁸ The report was released in 2007, with its recommendations having gone unimplemented. We therefore finally recommend that the collaborative review this report, which we believe would be useful for purposes of the Prevention Strategy.

Conclusion

11. We are grateful for the opportunity to comment on the Prevention Strategy. We hope that our contribution adds value, and we look forward to contributing to the implementation of Pillar 2 of the National Strategic Plan on GBVF (through the Prevention Strategy), as outlined above.

12. Should you have any queries, please do not hesitate to contact us.

Yours faithfully



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⁸ The Centre for the Study of Violence and Reconciliation, *The Violent Nature of Crime in South Africa*, 25 June 2007.