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## **Ms CN Ndaba**

Chairperson: PC on Women, Youth and Persons with Disabilities

Attention: Ms N Nobatana.

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## **RE: SUBMISSION ON THE NATIONAL COUNCIL ON GENDER-BASED VIOLENCE AND FEMICIDE BILL (B31-2022)**

This is a response to the Portfolio Committee on Women, Youth and Persons with Disabilities for the submission of written comments on the National Council on Gender- Based Violence and Femicide Bill (B31-2022).

## **Background**

1. The Centre for Social Justice (CSJ) and Law Trust Chair in Social Justice at Stellenbosch University is grateful for the opportunity to submit comments in response

to the call for comments on the National Council on Gender- Based Violence and Femicide Bill of 2022.

2. The research, innovation, teaching and stakeholder engagement efforts of CSJ at Stellenbosch University is to contribute to ending poverty and equalising opportunities by 2030, in support of the National Development Plan (NDP), Agenda 2063 and the UN Sustainable Development Goals (SDGs). In having committed ourselves at the Inaugural International Social Justice Summit and Conference that was convened from 29-31 August 2019, to join hands in advancing the constitutional promise, human rights and SDGs in a manner that redressed imbalances of the past, while ending poverty and ensuring no one is left behind regarding full participation in all aspects of the economy and social life, we seek accelerated change, focusing on
  - Policy and law reform through data analytics to ensure inclusive and transformative social impact;
  - Mobilising society towards social accountability and social cohesion;
  - Cultivating leadership at all levels of society and contributing to a capable state; and
  - Resource mobilisation from society and international collaborators to fund accelerated social change.<sup>1</sup>

## **Introduction**

### **The National Council on Gender-Based Violence and Femicide Bill (B31-2022)**

The Bill seeks to establish a statutory body known as the National Council on Gender-Based Violence and Femicide, in line with the National Strategic Plan (NSP) on Gender-based Violence and Femicide (GBVF) that Cabinet approved in March 2020. The main objective of the Council is to provide strategic leadership and political guidance towards the elimination of GBVF in South Africa.

Gender based violence in all its forms is a social ill that curtails the fulfilment, enjoyment and protection of right holders, particularly vulnerable groupings within societies. The existence of violence in society, having constitutional guarantees to the right from freedom of violence,

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<sup>1</sup> Resolution adopted by the Inaugural International Social Justice Conference (2019) Hazendal Wine Estate.

makes its perpetuation a social crime. Social crime is defined as “criminal and violent activities provoked by social factors that create an unsafe society and prevent the restoration of social cohesion and social fabric.”<sup>2</sup> The phenomenon presents in societies and areas where the social fibre, values and moral principles have broken down. This often leads to the interruption of principles of moral responsibilities related to respect and duty of care of citizens and families. Furthermore, it is associated with anti-social behavioural tendencies which infringe rules and norms of society and inhibits the actualisation of social unity and resilience in family units. Gender-based violence and femicide is a form of social injustice that perpetuate inequalities within societies, especially societal groups that are more prone to these forms of violations. Gender norms and expectations in societies have been noted as drivers of gender inequalities, particular for vulnerable groups such as women and children, to mention a few. These inequalities within the gender framework perpetuate social inequalities amongst these vulnerable groupings, thereby curtailing equality in the broader narrative of social survival. Hence, the existence of Gender-based Violence and Femicide crimes within communities is a social injustice that warrants urgent action for its prevention and protections of all victims of these crimes.<sup>3</sup> We therefore welcome the action by the government of South Africa and its relevant governmental department, stakeholders and partners in articulating the tabulation of this Bill to seek to end Gender based Violence and Femicide.

**However specific concerns are noted which ought to be considered in the finalisation of the Bill:**

#### **Purpose of the Act**

1. **Clause 2(f)** The Ministry of Women, Youth and Persons with Disabilities should have a responsible person for monitoring and evaluating its ministerial obligation and link this with the National Council on Gender based Violence and Femicide. Within the National Council there ought to be a Policy and Programmes Monitoring and Evaluation person who liaises with the responsible Ministry on the progress of all programmes and ensures their alignment with the overall National Strategic Plan on Gender based Violence and Femicide. Having key responsible persons for these roles ensure that

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<sup>2</sup> Department of Social Development, Integrated Social Crime Prevention Strategy, September 2011. See also National Strategic Plan on Gender- Based Violence and Femicide Human Dignity and Healing, Safety, Freedom and Equality in our lifetime 11 March 2020.

<sup>3</sup> National Strategic Plan on Gender- Based Violence and Femicide Human Dignity and Healing, Safety, Freedom and Equality in our lifetime 11 March 2020.

programmes and short, medium and long-term targets are closely monitored, tracked and challenges that may arise are identified and addressed timeously.

### **Object of the Council**

1. **Clause 4(c)** ought to state that the Council object is to monitor and evaluate all programmes, policies and recommended actions by requisite stakeholders are implemented and attained according to projected cycles and timelines. Monitoring and evaluation must be a key function of the National Council on Gender based Violence and Femicide as this assesses the impact of the National Strategic Plan of Action in the overall fight against gender-based violence and femicide.

### **Board of Council**

1. **Clause 6(b)**: The Department of Higher Education and Training (DHET) should be included as a key member of the board. They are instrumental and a key ally in the required education programmes and training on issues of gender-based violence and femicide awareness, prevention and protection in key sectors of communities in South Africa. There is lack of specificity on the aggregation based on age, gender and or disability of those who constitute as members of the Council. The Department of Women, Youth and Persons with Disabilities' focus is to address violence and femicide of marginalised groups, which include women and persons living with disabilities; these groupings ought therefore to be well represented on the Council. We recommend the use of data disaggregated by ward in order to identify and monitor hotspots. We also recommend the use of our nine-dimensional Social Justice Impact Assessment Matrix (SIAM) to evaluate the impact of the Council's work.
2. The composition of the Board stakeholders should include representation from International Aid and development agency partners as they are key in funding government programmes.
3. Another consideration on the composition of the Board is how and where will the Commission for Gender Equality fit into the work of the National Council? What are the synergies that ought to be established between the National Council and the Commission for Gender Equality in the advancement of the programmes and national plans?

### **Appointment of Chief Executive Officer**

1. **Clause 15.** Reconsiderations should be made in relation to the appointment of a Chief Executive Officer for the Council. Consideration should alternatively be, the appointment of a Chief Programme Manager for the Council. This is a less costly arrangement on the financial resources of the Council and its sustainability effectiveness and continued operation. While experts are essential for the National Council to provide strategic focus on and implementation of the requisite plans to combat gender- based violence and femicide, this must be balanced against the available resources and motivated by the need to have a practical and cost-efficient team. This consideration ensures the realisation of all the objectives, plans and programmes that eliminate violence and femicide within South African communities.

### **Funds of the Council**

1. **Clause 18.** The key institution to secure funding for the National Council on Gender-based Violence and Femicide should be the Ministry of Women, Youth and Persons with disabilities. Placing this obligation on the National Council to source its own funding raises the question on how different the National Council on Gender-based Violence and Femicide is from other non-governmental organisations. It places the National Council in a challenging scenario of competing in a pool of limited resources which eventually threatens its continuity and implementation of programmes. This challenging scenario in the long run hinders the realisation of the national strategies and programmes to combat the fight to end gender-based violence and femicide.
2. Under this clause the issue that ought to be considered is the National Council's classification under the Public Finance Management Act? What will be the nature of the work or relationship in the operation and functioning of the Council? How is accountability ensured in this classification and operation.

### **Conclusions and Recommendations**

The Bill must be commended as it underpins the task of setting up a National Council for Gender- based Violence and Femicide that sees the implementation of the National Strategic Plan on Gender-Based Violence and Femicide 2020-2030 to end violence against marginalised groups in South Africa. However, considering further refinements based on constitutional

fidelity, the Bill could have more transformative potency on plans programmes and strategies to end gender-based violence and femicide.

1. **Further clarifications on the object and purpose of the Bill is required in order to avoid duplication of roles, the incorporation of all stakeholders and issues related to monitoring and evaluating its programmes.**
2. **Further refinement is needed on the synergies that ought to be enhanced with Ministries and Departments and relevant stakeholders responsible for combating violence against women and other marginalised groups.**
3. **The balance between the required expertise to undertake the tasks of the National Council and resource mobilisation that sustain its operation and attainment of its overall goal ought to be seriously weighed. This is an important consideration in that it avoids the establishment of an institution that will struggle to undertake its overall goal due to funding and resource challenges. This thereby hampers the intended overall goal of fighting and overcoming gender- based violence and femicide.**

Yours sincerely

Centre for Social Justice, Faculty of Law, Stellenbosch University

**Stakeholders who contributed to the submission:**

1. Prof Thuli Madonsela (Director: Centre for Social Justice, Law Trust Chair in Social Justice, Stellenbosch University and Social Justice Musa Plan Convenor)
2. Dr Fungisai Gcumeni (Post Doctoral Fellow, Centre for Social Justice, Stellenbosch University)
3. Ms Nolwandle Made (Project Coordinator: SCOPRA, Law Faculty Trust Chair in Social Justice, Stellenbosch University)
4. Ms Marna Lourens (Project Manager, Centre for Social Justice, Stellenbosch University)

**References**

1. NATIONAL STRATEGIC PLAN ON GENDER-BASED VIOLENCE & FEMICIDE 2020 – 2030.
2. Department of Social Development, Integrated Social Crime Prevention Strategy, September 2011.

3. National Strategic Plan on Gender- Based Violence and Femicide Human Dignity and Healing, Safety, Freedom and Equality in our lifetime 11 March 2020.
4. Resolution adopted by the Inaugural International Social Justice Conference (2019) Hazendal Wine Estate.