



ACTION SOCIETY

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TO : Portfolio Committee on Women, Youth and Persons with Disabilities
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DATE : 19 MAY 2023

SUBJECT: Submission on the National Council on Gender-Based Violence and Femicide Bill [B31-2022]



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TABLE OF CONTENTS

INTRODUCTION	3
CONCERNS	4
Inability to Resolve Issues in the South African Police Force	4
Inadequate Focus on Root Causes	7
Lack of Assurance for Competence and Integrity	7
Incapacity to Address the DNA Analysis Backlog	8
GENERAL PROPOSALS	8
Addressing Root Causes	8
Ensuring Competence and Integrity	9
Strengthening the SAPS	9
Addressing the DNA Analysis Backlog	10
CONCLUSION	10

"Hardly a day passes without any incident of gender-based violence being reported. This scourge has reached alarming proportions. It is sad and a bad reflection of our society that 25 years into our constitutional democracy, underpinned by a Bill of Rights, which places a premium on the right to equality³⁶ and the right to human dignity,³⁷ we are still grappling with what is a scourge in our nation."

INTRODUCTION

I am writing on behalf of Action Society, a dedicated civil society organisation deeply committed to combating the ongoing pandemic of gender-based violence and femicide (GBVF) in South Africa. Action Society is driven by a **purpose to provide a voice to the voiceless**. Our mission to create a safer, more just society aligns us closely with the objectives of the National Council on Gender-Based Violence and Femicide Bill [B31-2022] (the Bill), currently under consideration.

The bill's intent to establish an independent, multi-sectoral National Council to coordinate and implement a comprehensive, coherent national strategic plan to end GBVF is a move we deeply appreciate. However, through our experience on the ground, our interactions with victims and stakeholders, and our ongoing efforts to study and understand the complex societal dynamics underpinning GBVF, we have developed several concerns regarding the bill in its current form.

We believe that the bill does not adequately address the root causes of GBVF and lacks robust measures to ensure transparency, accountability, and competency in the Council. Moreover, we are concerned about the Bill's capacity to address the entrenched issues within the South African Police Service (SAPS), including corruption, inefficiency, and the significant backlog in DNA analysis that impedes the effective investigation and prosecution of GBVF cases.

While we laud the intent behind the National Council on Gender-Based Violence and Femicide Bill, we firmly believe that without substantial amendments and revisions, the Council may fall short of its potential and fail to provide an effective, actionable solution to South Africa's GBVF crisis.

¹ Constitutional Court of South Africa in *Tshabalala v The State; Ntuli v The State* [2019] ZACC 48



The following sections of this submission will elaborate on these concerns and provide specific, actionable recommendations for amendments to the Bill, with the aim of enhancing the Council's potential effectiveness and impact.

In short it is Action Society's position that a Council alone will not solve South Africa's GBVF crisis.

CONCERNS

Inability to Resolve Issues in the South African Police Force

The Council, as currently proposed, does not have any clear mandate or mechanism to address the widespread corruption, incompetence, and systemic issues within the South African Police Service (SAPS). The recent Commission for Gender Equality (CGE) report highlights the inadequacy of SAPS in handling GBVF cases, indicating a deeper, systemic problem that a council, however well-meaning, cannot resolve without significant police reform.²

The South African Police Service (SAPS) plays a crucial role in responding to GBV, but as the CGE report indicated, it is often ill-equipped to do so effectively. Issues like lack of training in handling GBVF cases, resource shortages, and corruption hinder SAPS's effectiveness. The council should have the authority to work with SAPS to address these issues, such as by recommending training programs, calling for increased resources, and advocating for reforms to address corruption.

We briefly highlight some of the shortcomings and issues that face the SAPS.

Addressing Issues in the South African Police Force

A significant reason behind the continuing crisis of gender-based violence (GBV) in South Africa is the deep-rooted challenges faced by the South African Police Service (SAPS). It is an undeniable fact that the police force, as the first line of response to these heinous crimes, plays a pivotal role in combating GBVF. Thus, without a radical

² Commission for Gender Equality (CGE) inaugural Biannual SAPS Report (2022)
Available at <https://actionsociety.co.za/commission-for-gender-equality-biannual-saps-report/>



transformation in SAPS, any attempt to control GBVF, including the formation of the proposed Council, will be rendered ineffective.

Unacceptable Police-to-Population Ratio

One of the glaring issues that need immediate attention is the disproportionate police-to-population ratio across different provinces. The CGE report clearly highlights this issue, with some provinces having alarmingly high numbers. For instance, Gauteng has one police station serving 109,790 people, and KwaZulu-Natal serving 62,500 people. These numbers are significantly higher than the acceptable world standard of 200 persons per police officer. This severely strained ratio of police officers to the population makes it impossible for effective policing, especially in the case of specialised crimes like GBVF. Therefore, a significant increase in the number of police officers trained in handling GBVF cases is critical.

Shortage of Resources

Another concern is the severe shortage of essential resources, such as vehicles, phones, and computers. In some cases, police officers have resorted to buying their own equipment. This lack of resources is not only impeding the efficient functioning of SAPS but is also severely affecting the handling of GBVF cases, as GBVF coordinators often do not have the necessary dedicated spaces or equipment to carry out their work. This issue must be addressed through increased funding and resource allocation to the SAPS specifically designated for handling GBVF cases.

Delays in the DNA System

The report further reveals that the processing of forensic and DNA evidence takes an unacceptable duration of between five months and three years. This delay is leading to high withdrawals and acquittals in most cases, thereby jeopardising justice for victims. An efficient DNA system is vital in GBVF cases, and the government should prioritise resolving this backlog.

Insufficient Training for Officials and First Responders to GBV

The CGE report shows evidence of a substantial variation in training between stations in provinces and between provinces. In Delft, Western Cape 80% of the staff is untrained in properly handling GBVF cases; in Nelspruit, Mpumalanga, 81% is incapable. This lack of training exposes a grave systemic weakness that needs



immediate redressal. A comprehensive and consistent training program focusing on GBVF for all police officers should be a mandate.

Poor Condition of Police Stations and Victim-Friendly Rooms (VFRs)

Many police stations do not have victim-friendly rooms, which contributes to secondary trauma for victims. The condition of police stations and the availability of VFRs is crucial in dealing with GBVF cases. Victims should feel safe and comfortable when they report these crimes.

Shortage of Rape Kits

The shortage, and in many cases, the non-availability of rape kits, further exacerbates the problem. These kits are crucial in collecting evidence that can aid in the prosecution of these crimes.

High Withdrawal Rate of GBVF Cases

The report also highlights several contributing factors leading to the withdrawal of GBVF cases, including family interference, the length of cases to a successful prosecution, and the overall handling of gender-based crimes. The average conviction rate for GBVF cases stands at around a mere 5.3%.

Solving these issues within SAPS requires a comprehensive and dedicated approach that extends beyond the formation of a Council. It requires actionable measures, increased funding, a focus on improving training, the provision of necessary resources, eradicating corruption within the police and holding incompetent personnel accountable. The SAPS is one of the key institutions in the fight against GBV. Hence, it is essential that it operates with efficiency, sensitivity, and urgency. Improving the police-to-population ratio will enable more effective policing and allow for a more specialised focus on GBVF cases. This can be achieved through recruitment drives and prioritising the staffing of police stations in areas with high incidents of GBV.



Inadequate Focus on Root Causes

The Bill, as it stands, does not sufficiently address the underlying causes of gender-based violence in our society. GBVF in South Africa is a complex issue deeply entrenched in societal norms and attitudes, structural inequality, and economic disparity. It is unfortunately powered a widespread culture of violence faced by South Africans coupled with an extremely lack of protection offered by the South African Police Service and a failing justice system which does not ensure redress and protection for the citizens that it is supposed to serve.

Addressing GBVF requires a holistic understanding of the multi-layered factors that contribute to its prevalence. This includes understanding the societal norms that tolerate or even promote violence, the societal structures that allow violence against women, and the economic conditions that often leave women vulnerable to abuse. It is also important to address the culture of impunity that often surrounds GBVF cases. The Council, therefore, needs to have a mandate to tackle these issues, to change attitudes through public education campaigns, and to advocate for policy changes that address structural inequalities and promote gender equality. Most importantly for the council to have any real effect on GBVF it should be able to hold the South African justice system and South African Police Service to account for its continued failures.

While we appreciate the need for a coordinated response, it is essential that the council's mandate is expanded to address the root causes of GBVF and femicide in South Africa.

Lack of Assurance for Competence and Integrity

South Africa's history of corruption and maladministration in justice and crime-fighting bodies raises concerns about the integrity of the proposed council. The bill must provide clear mechanisms for ensuring the selection of competent and incorruptible individuals to the council, as well as effective oversight and accountability mechanisms.

The effectiveness of the council will largely depend on the competence and integrity of its members. The bill should explicitly lay out the qualifications and experience required for council membership to ensure that those selected have the necessary expertise to tackle GBV. This should include expertise in fields like sociology, psychology, criminology, and law. To guard against corruption, the bill should also



include strong measures for transparency and accountability, such as regular audits and public reporting of the council's activities and finances.

Incapacity to Address the DNA Analysis Backlog

One of the significant challenges in prosecuting GBVF cases is the enormous backlog in DNA analysis, which leads to significant delays in justice delivery. The proposed council does not have any explicit power or mechanism to address this challenge.

The backlog in DNA analysis is a significant obstacle to justice for GBVF victims. Long delays in processing evidence can lead to cases being delayed or even dismissed, allowing perpetrators to escape punishment. The council should be empowered to work with relevant agencies to expedite DNA testing and analysis. This could include recommending increased funding for forensic labs, promoting the use of new technologies to speed up testing, and working with the courts to prioritise GBVF cases.

GENERAL PROPOSALS

Addressing Root Causes

The bill should include provisions for the council to work with educational institutions, community organisations, and other relevant stakeholders to implement programmes that challenge harmful social norms and promote gender equality.

As mentioned before, the council should have a clear mandate to tackle the root causes of GBV. This should involve both short-term and long-term initiatives. In the short term, the council could launch public education campaigns aimed at changing attitudes towards GBV, promoting gender equality, and encouraging victims and witnesses of GBVF to report incidents. In the long term, the council should work with government agencies, non-governmental organisations, and educational institutions to promote policies and curricula that empower women economically, and foster a culture of respect for human rights.



Ensuring Competence and Integrity

The bill establishing the council should lay out clear qualifications and experience required for council membership. For instance, members could be required to have a minimum number of years of experience in a relevant field, such as sociology, psychology, criminology, or law. In addition, to guard against corruption, the bill should establish mechanisms for transparency and accountability, such as regular audits by an independent body and public reporting of the council's activities and finances. The council could also be required to develop and adhere to a code of conduct that sets out ethical standards and procedures for dealing with conflicts of interest.

The bill could be amended to include specific qualifications for council members, such as professional experience in fields relevant to GBVF or a track record of advocacy for gender equality or human rights. It could also require a balance of members from different sectors, such as government, civil society, academia, and the private sector.

Strengthening the SAPS

The bill should include provisions for the council to work directly with the SAPS, providing recommendations for training, resources, and other necessary reforms.

The council should work closely with the South African Police Service (SAPS) to address the issues identified in the CGE report. This could involve recommending specific training programs for SAPS officers on handling GBVF cases, advocating for increased resources for SAPS (including personnel, equipment, and funding), and promoting reforms to address corruption within SAPS. The council could also work with other relevant agencies, such as the Independent Police Investigative Directorate, to monitor SAPS's handling of GBVF cases and ensure accountability for misconduct.

The bill could include provisions for the council to work closely with SAPS to address the issues identified in the CGE report. This could involve recommending specific training programs, advocating for increased resources, and promoting reforms to address corruption.



Addressing the DNA Analysis Backlog

The council should be empowered and resourced to address the DNA analysis backlog, including the ability to collaborate with other relevant agencies to expedite testing and analysis.

To expedite DNA testing and analysis, the council could work with the Department of Health, the National Forensic DNA Database of South Africa, and other relevant agencies. This could involve recommending increased funding for forensic labs, promoting the use of new technologies to speed up testing, and advocating for the prioritisation of GBVF cases in DNA analysis. The council could also monitor the progress of DNA testing and analysis and report on this to the public, to ensure transparency and accountability.

The bill could include provisions for the council to work with relevant agencies to expedite DNA testing and analysis in GBVF cases. This could involve recommending increased funding for forensic labs and promoting the use of new technologies to speed up testing.

Most importantly, should the council intend on actually resolving the DNA backlog it should be mandated and empowered to explore public-private partnerships where DNA analysis is outsourced to private entities or university laboratories to assist with not only reducing the DNA backlog but also to ensure that no DNA backlog exists in the future.

CONCLUSION

In conclusion, we recognise and appreciate the earnest efforts of the government in seeking to address the pervasive issue of Gender-Based Violence (GBV). The establishment of the proposed National Council on Gender-Based Violence and Femicide reflects an important acknowledgment of this crisis. However, we firmly believe that the proposed structure and mandate of the Council, as it stands, are insufficient to effectively tackle the systemic, deeply-rooted issues that underpin GBVF in our society.

Our primary concern revolves around the need for a holistic, multi-pronged approach to GBV, one that addresses not only the symptoms but also the root causes of this crisis. The current proposal for the Council fails to thoroughly address these root



causes and may risk creating another layer of bureaucracy that lacks the necessary power or resources to effect real change.

Moreover, the proposal does not adequately address the critical deficiencies within our justice system and law enforcement bodies, particularly the South African Police Service. Without substantial improvements in these areas, we fear that the Council's efforts will be severely undermined. The persistence of these deficiencies continues to deny victims of GBVF the justice they deserve and undermines our collective efforts to deter such violence.

We, therefore, urge the Parliament to take these concerns into serious consideration and undertake a comprehensive revision of the bill. This revision should include our proposed amendments, which we believe will significantly enhance the capacity of the Council to address GBVF in South Africa. We believe that this revised approach will provide a more robust, effective, and comprehensive response to the GBVF crisis, thereby better serving the victims and helping to eradicate this blight on our society.

We stand ready to assist in this endeavour and look forward to a fruitful collaboration in our shared commitment to ending GBVF in South Africa. We thank the Parliament for its attention to this critical matter and for considering our submission.

Action Society is amenable and would welcome the opportunity to make oral submissions.

Thank you for your consideration.

Sincerely,

Ian Cameron

Director at Action Society