





# Navigating Acquittals in Gender-Based Violence Cases in South Africa: Strategies for Strengthening Legal Outcomes and Supporting Survivors

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## ABSTRACT

The purpose of this study was to examine the legal and procedural challenges surrounding acquittals in cases of gender-based violence (GBV) in South Africa, with a focus on strategies to strengthen legal outcomes and support survivors. Although South Africa has made significant strides in developing a robust legal framework to combat GBV, the high rate of acquittals in these cases raises concerns about the effectiveness of the justice system. This study examined whether existing legal mechanisms adequately protect survivors and hold perpetrators accountable or if gaps in evidence collection, prosecutorial approaches, and judicial interpretation contribute to case dismissals. With legislative provisions, court rulings, and procedural shortcomings, this paper assessed whether the current legal framework aligns with constitutional principles of justice, equality, and protection from harm. Additionally, the study evaluated the role of law enforcement, prosecutorial strategies, and survivor support systems in improving conviction rates and ensuring access to justice. It further investigated the impact of acquittals on survivors' well-being, societal perceptions of justice, and broader efforts to combat GBV. This study aims to provide recommendations for legal reforms, enhanced prosecutorial strategies, and victim-centred approaches that strengthen legal outcomes and reduce barriers to justice. It is hoped that the insights collected in this study will contribute to the ongoing discourse on improving accountability, survivor protection, and overall effectiveness of the legal system in addressing gender-based violence in South Africa.

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## INTRODUCTION

The preamble of the Constitution of the Republic of South Africa (hereinafter "the Constitution") advocates for protecting all people and improving their lives.<sup>1</sup> The Constitution is founded on human dignity and equality, and the values of *Ubuntu* embrace constitutional supremacy.<sup>2</sup> The state must respect, protect, and promote the Bill of Rights.<sup>3</sup> The Presidency boasts in its services to the state frameworks that directly embrace women's well-being to bolster their rights and advance their interests in the broader

<sup>1</sup> Preamble of the Constitution of South Africa Act 108 of 1996 (hereinafter "the Constitution").

<sup>2</sup> Sections 2(a) of the Constitution.

<sup>3</sup> Section 7(2) of the Constitution.

society.<sup>4</sup> Beyond the borders of the Human Rights Charter, the African Charter on Human and Peoples' Rights ("the African Charter")<sup>5</sup> provides for the broader protection of women's human rights, including their sexual and reproductive rights, and the Protocol to the African Charter on Human and Peoples' Rights on Women's rights in Africa.<sup>6</sup> A plethora of frameworks mitigates the plight of women in improving the social well-being of women on our continent. The frameworks aim to strengthen and protect the vulnerable and provide for legislative solutions and enhancement of already available mechanisms against the victimisation of women and vulnerable people in our society.

Navigating acquittals in gender-based violence (GBV) cases presents one of the most pressing legal and social challenges in South Africa. Tshoane argues that such acquittals are a result of wrongful arrests, and often in GBV cases.<sup>7</sup> In *S v Khumalo*<sup>8</sup>, the Court argued that such acquittals may be due to false accusations that usually target men, but also claims that in these instances, something would have gone wrong in the relationship. Motivations around these issues may result in false accusations becoming so intricate. In the Khumalo case, it was revealed that, sometimes, due to the unreliability of evidence, among other things, acquittals may occur. Despite having one of the most progressive constitutions in the world, with firm commitments to human rights and gender equality, South Africa continues to experience alarmingly high rates of GBV, often accompanied by low conviction rates.<sup>9</sup> Acquittals in cases of GBV, particularly in cases of sexual assault and domestic violence, have raised serious concerns about the effectiveness of the country's legal system in delivering justice to survivors.<sup>10</sup> These acquittals not only deny justice to victims but also contribute to a culture of impunity, where perpetrators feel emboldened, and survivors are discouraged from seeking legal redress.<sup>11</sup> The persistence of such outcomes calls into question the suitability of current legal frameworks, the readiness of law enforcement, and the broader societal attitudes that influence judicial decisions.<sup>12</sup> Although legislative reforms such as the Criminal and Related Matters Amendment Act and the Domestic Violence Amendment Act have sought to enhance protections for survivors, the gap between law and practice remains significant.<sup>13</sup> For instance, the Criminal and Related Matters Amendment Act introduced stricter penalties for perpetrators, but resource constraints and procedural delays have hindered its implementation. The authors above suggest that factors such as evidentiary challenges, poor police investigation, lack of prosecutorial sensitivity, and societal stigma often contribute to the collapse of GBV cases before a successful conviction can be secured. Furthermore, they argued that the complex dynamics of power, trauma, and fear further complicate the survivors' ability to fully participate in the legal process. Moreover, systemic issues such as court delays, under-resourced police units, and insufficient victim support services continue to undermine efforts to hold perpetrators accountable.<sup>14</sup> Sherman argues that the high rate of acquittals undermines public confidence in the justice system and does not deter future violence.<sup>15</sup>

This study aims to critically examine the root causes of acquittals in GBV cases in South Africa while identifying actionable strategies to strengthen legal outcomes and enhancing survivor support. By analysing the legal and extra-legal factors contributing to acquittals, the study seeks to provide a nuanced

<sup>4</sup> South African National Policy Framework for Women's Empowerment and Gender Equality.

<sup>5</sup> The African Charter on Human and Peoples' Rights ("the African Charter").

<sup>6</sup> 2<sup>nd</sup> Ordinary Session, Assembly of the Union, which was adopted on July 11, 2003 (Protocol on the Women's Rights in Africa) and ratified by the 11 African States, including South Africa, on 17<sup>th</sup> February 2006, ("The Protocol").

<sup>7</sup> Sabelinah Mmabjala Tshoane, "Whispers of Injustice: Revealing the Silent Struggle of Men Wrongfully Accused of Gender-Based Violence and Other Crimes, Convicted in South Africa.," *Pakistan Journal of Criminology* 15, no. 4 (2023).

<sup>8</sup> *S v Khumalo and Another* SS031/2021[2022] ZAGP JHC 167(16 March 2022).

<sup>9</sup> Lizelle Ramaccio Calvino and Mafuku Tholaine Matadi, "Enforcement of Gender-Based Violence Legislation in South Africa: The Need for a Paradigm Shift," in *Global Trends in Law Enforcement-Theory and Practice* (IntechOpen, 2023).

<sup>10</sup> Mispa Roux, "Contributing to the Achievement of Justice for Victims of Sexual and Gender-Based Violence by Implementing the Legacy and Experience of International Criminal Courts and Tribunals," *Stellenbosch Law Review* 31, no. 3 (2020): 455–80.

<sup>11</sup> Roux, "Contributing to the Achievement of Justice for Victims of Sexual and Gender-Based Violence by Implementing the Legacy and Experience of International Criminal Courts and Tribunals."

<sup>12</sup> Alina Pomaza-Ponomarenko et al., "Dynamics of Legal Transformatins: Assessment of Impact on Society and Analysis of Determinations of Changes in the Legislative Sphere," *Multidisciplinary Reviews* 7 (2024).

<sup>13</sup> Jacqueline G Lee and Bethany L Backes, "Civil Legal Aid and Domestic Violence: A Review of the Literature and Promising Directions," *Journal of Family Violence* 33, no. 6 (2018): 421–33.

<sup>14</sup> Donna Chung et al., *Improved Accountability: The Role of Perpetrator Intervention Systems* (Australia's National Research Organisation for Women's Safety (ANROWS), 2020).

<sup>15</sup> Lawrence W Sherman, "Trust and Confidence in Criminal Justice," *National Institute of Justice Journal* 248 (2002): 22–31.

understanding of the challenges faced by survivors and justice system actors. The research will assess the effectiveness of existing legislative reforms, explore the impact of societal attitudes and legal culture, and propose recommendations for bridging the gap between legal protections and lived realities. Ultimately, this study intends to contribute to the ongoing efforts to transform South Africa's justice system into one that genuinely upholds the rights and dignity of GBV survivors. Like the rest of the continent and beyond, South Africa must promote the UN SDGs and adhere to the protocols prescribed by the frameworks. Internally, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) serves as the landmark treaty that requires the state to eradicate discrimination, promote equal treatment of women, and protect their rights as humans.<sup>16</sup>

## METHODOLOGY

Gender-based violence in South Africa has brought much suffering, primarily to women and girls. The paper explores the support provided to the survivors of such inhumane acts, and more so, exhibiting many acquittals. The paper uses a doctrinal legal research methodology to unearth the lack of support and recommend strategies for support of the prevalent gender based violence victims, informed by the SDGs roadmap for building a better future for all people and the planet vision 2030. From the 2030 vision is the target achievement of goal 5, gender equality and empowerment of all women and girls, eliminating discrimination and violence, but promoting opportunities. The study, through a robust engagement with the analysis of primary sources, including statutes, cases, and secondary sources, such as scholarly articles, aims to identify the gaps in the criminal justice system.

## DISCUSSION

### Understanding insight into the drift of GBV acquittals

As the scourge of Gender-based violence persists in society, Yesufu posits that it is one of the most urgent and critical social issues in South Africa, demanding immediate attention and action.<sup>17</sup> Nyagumbo claims that despite constitutional and legislative frameworks aimed at curbing this crisis, the justice system still sees alarmingly high rates of acquittals in GBV-related cases.<sup>18</sup> According to Cameron, only a fraction of GBV cases result in convictions, with many failing due to insufficient evidence, procedural errors (such as mishandling of evidence or failure to follow correct legal procedures), or witness intimidation (where witnesses are threatened or coerced into changing their testimony).<sup>19</sup> Antonsdottir argues that the high rates of GBV acquittals underscore the crucial need for comprehensive, multi-dimensional reform that prioritises justice for survivors and accountability for perpetrators.<sup>20</sup> As Husain pointed out, the acquittals rates in GBV cases are influenced by many factors, ranging from investigative lapses to prosecutorial inefficiencies.<sup>21</sup> In this instance, survivors often withdraw cases due to fear, stigma, or lack of faith in the legal system.

The burden of proof in criminal cases often disadvantages victims, especially in crimes such as rape and domestic abuse, where corroborative evidence may be limited.<sup>22</sup> The study by the above author further emphasized that forensic victimology would be the best method for examining violent crime victims in many investigations. The low conviction rates not only undermine public confidence in the justice system but also embolden offenders, perpetuating cycles of violence.<sup>23</sup> Compared to other countries with integrated survivor support systems and specialised GBV courts, such as Spain and Canada,

<sup>16</sup> Elimination of All Forms of Discrimination Against Women (CEDAW).

<sup>17</sup> Shaka Yesufu, "The Scourge of Gender-Based Violence (GBV) on Women Plaguing South Africa," *EUREKA: Social and Humanities*, no. 1 (2022): 96–100.

<sup>18</sup> Basil Tafadzwa Nyagumbo, *A Comparative Study of Stakeholders' Views on the Drivers of and Responses to Gender-Based Violence in South Africa* (University of Johannesburg (South Africa), 2021).

<sup>19</sup> Edwin Cameron, "The Crisis of Criminal Justice in South Africa," *South African Law Journal* 137, no. 1 (2020): 32–71.

<sup>20</sup> Hildur Fjola Antonsdottir, "Decentering Criminal Law: Understandings of Justice by Victim-Survivors of Sexual Violence and Their Implications for Different Justice Strategies," 2020.

<sup>21</sup> Taha Husain, "Unraveling the Complexities: Factors Influencing Conviction Rates in Violence against Women (VAW) Cases in Northern Bangladesh," n.d.

<sup>22</sup> Brent E Turvey, *Forensic Victimology: Examining Violent Crime Victims in Investigative and Legal Contexts* (Academic Press, 2023).

<sup>23</sup> Husain, "Unraveling the Complexities: Factors Influencing Conviction Rates in Violence against Women (VAW) Cases in Northern Bangladesh."

data show higher conviction rates and better survivor satisfaction.<sup>24</sup> These models illustrate the importance of combining legal rigor with trauma-informed practices, a lesson South Africa must heed in pursuing justice reform. Trauma-informed practices are approaches that consider the psychological and emotional trauma experienced by survivors of GBV, and they are crucial in ensuring that the legal process does not retraumatize the survivor.

### Challenges with the Legal System

The South African legal system faces numerous challenges in effectively prosecuting GBV cases. Ncube posits that these challenges include delays in the judicial process, which can lead to prolonged trauma for survivors, a lack of specialised training for legal personnel in handling GBV cases, and limited forensic resources, which can hinder the collection and analysis of crucial evidence.<sup>25</sup> Smith highlights that key issues include delays in the judicial process, a lack of specialised training for legal personnel, and limited forensic resources.<sup>26</sup> Many cases are thrown out due to inadequate evidence or procedural inconsistencies, further discouraging survivors from pursuing justice. Law enforcement officers often lack sensitivity training, which can lead to secondary victimisation during police interviews or investigations to Kensis.

“The high caseloads and under-resourced courts mean that GBV cases are often deprioritised, leading to prolonged trials or lost documentation.”<sup>27</sup>

A study published in the "South African Journal on Human Rights" noted that only 8% of reported rape cases in South Africa result in convictions, mainly due to systemic failures at the investigative and prosecutorial levels.<sup>28</sup> The over-reliance on victim testimony, without adequate forensic or corroborative evidence, places an unfair burden on survivors.<sup>29</sup> This is exacerbated by social stigma, which can deter victims from fully participating in the judicial process. Legislative gaps, such as the inconsistent implementation of the Domestic Violence Act<sup>30</sup> and the Sexual Offences Act,<sup>31</sup> further hinder effective legal outcomes.

Moreover, magistrates and judges are not uniformly trained in handling GBV cases, leading to inconsistencies in sentencing and interpretations of consent and coercion.<sup>32</sup> The absence of a unified and survivor-centred approach compromises the ability of the legal system to deliver justice.

### Empowering Survivors: Support and Advocacy Resources

Survivor support is integral to the success of GBV prosecutions. Without comprehensive emotional, legal, and logistical assistance, many survivors opt out of the legal process.<sup>33</sup> Support systems must be holistic, encompassing psychological counselling, shelter, financial aid, and legal representation.<sup>34</sup> Organizations such as Rape Crisis Cape Town Trust and the Teddy Bear Foundation have pioneered survivor-centered models that offer continuous support throughout the legal process.<sup>35</sup> These models demonstrate that survivors who receive adequate support are more likely to follow through with their cases and provide

<sup>24</sup> Michelle Handy, “A Legal Empowerment Approach to Improving Access to Justice for Victim-Survivors of Sexual and Gender-Based Violence,” *University of Colombo Review* 5, no. 1 (2024).

<sup>25</sup> Mongiwa Pamela Ncube, “Protection Orders in South Africa: The Effectiveness of Implementation and Enforcement for Victims of Gender-Based Violence,” 2021.

<sup>26</sup> Lisa L Smith, Heather D Flowe, and Wangu Kanja, “Achieving More with Less: A Critical Review of Protocols for Forensic Investigation of Sexual Violence in Low-Resource Environments,” *Forensic Science International: Synergy* 1 (2019): 108–13.

<sup>27</sup> talia Kensis, “Prevention, Intervention And Healing,” 2024.

<sup>28</sup> Z. Albanic, “The Unrapeable Black Woman: Understanding the Plight of the Black Rape Complainant in Contemporary South Africa.,” 2024.

<sup>29</sup> Madelyn Simring Milchman, “Oversimplified Beliefs about Child Abuse Allegations in Custody Cases with Alienation Rebuttals—Review of Empirical Data,” *Journal of Family Trauma, Child Custody & Child Development* 21, no. 2 (2024): 165–92.

<sup>30</sup> The Domestic Violence Act 116 of 1998.

<sup>31</sup> (Sexual Offences and Related Matters) Amendment Act 32 of 2007.

<sup>32</sup> S. Sydenham, “Restoring Justice: Examining Restorative Justice Sentencing Practices in Cases of Gender-Based Violence Offences” (Stellenbosch University, 2023).

<sup>33</sup> Handy, “A Legal Empowerment Approach to Improving Access to Justice for Victim-Survivors of Sexual and Gender-Based Violence.”

<sup>34</sup> Zanele Sibisi, “Effectiveness of the Socio-Economic Interventions That Empower Women’s Resilience Against Gender-Based Violence in EMalahleni” (University of the Witwatersrand, 2024).

<sup>35</sup> Lina Lechlech, “Post-Rape Care and Justice in South Africa: Improving Support Services for Survivors of Sexual Violence” (University of Oregon, 2020).

coherent testimonies, increasing the likelihood of convictions. Advocacy also plays a critical role.<sup>36</sup> Civil society organizations have lobbied for the inclusion of victim impact statements, trauma-informed court procedures, and the establishment of Thuthuzela Care Centres, which provide one-stop services for GBV survivors.<sup>37</sup> These centres have shown promise in improving conviction rates and survivor well-being.

However, the availability of such services is uneven across provinces, with rural areas often underserved.<sup>38</sup> Digital advocacy and mobile outreach units could bridge this gap, ensuring that even the most marginalized survivors can access support and information.<sup>39</sup> In other words, survivor support must also be culturally sensitive and tailored to individual needs, considering language, background, and the nature of the violence endured.

The most outrageous and recent example of a failed justice is the *S v Omotoso and Others*.<sup>40</sup> This case was heard in the High Court of South Africa, Eastern Cape Division, Gqeberha. It involved accusations of racketeering, human trafficking, sexual assault, and rape against Omotoso and two co-accused, Lusanda Sulani and Zukiswa Sitho. The three accused have been charged either jointly or individually with 63 counts, contravening sections 2(1)(f) and 2(1)(e) of the Prevention of Organised Crime Act 121 of 1998 (POCA),<sup>41</sup> sexual assault in contravention of section 5(1) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (Sexual Offences Act), rape in contravention of section 3 of the Sexual Offences Act,<sup>42</sup> trafficking in violation of s 71(1), and trafficking in persons for sexual exploitation in violation of s 4(1) of the Prevention and Combating of Trafficking in Persons Act,<sup>43</sup> As well as alternatives to those charges. The issue in this case centres on whether the South African legal system provided adequate support and advocacy for survivors of gender-based violence and whether the prosecution's approach, marked by insufficient evidence and procedural shortcomings, ultimately undermined the survivors' quest for justice. Despite the seriousness of the allegations and testimonies from survivors, the court ultimately acquitted the accused, citing technical flaws in the prosecution's case, including insufficient evidence and inadequate cross-examination.

The decision sparked widespread outrage and emphasized the systemic challenges in effectively addressing gender-based violence within the South African legal system. This is one cardinal case that showcases that our system lacks support and protection of the survivors of violence, and the perpetrator walked free, mocking the system and the victims. Although the judge was not satisfied with the accused's innocence, she could not find the accused guilty without credible evidence and proper evidence from the state.<sup>44</sup> Consequently, the accused were not found guilty and acquitted since the state could not prove its case.<sup>45</sup>

### **Bolstering Legal Frameworks: Enhancing Justice and Protection of Humanity**

To address the shortcomings in GBV case outcomes, South Africa must strengthen its legal frameworks with a focus on legislation and implementation.<sup>46</sup> One of the primary areas for reform is the standardization of investigative procedures, ensuring that evidence collection and preservation are conducted with forensic integrity.<sup>47</sup> Specialized GBV courts should be expanded and adequately resourced. These courts must be staffed with personnel trained in gender sensitivity and trauma-informed

<sup>36</sup> Lechlech, "Post-Rape Care and Justice in South Africa: Improving Support Services for Survivors of Sexual Violence."

<sup>37</sup> Judy Dlamini, "A Case Study on Transdisciplinary Approach to Eradicating Sexual Violence: Thuthuzela Care Centres," in *Sexual Violence-Issues in Prevention, Treatment, and Policy* (IntechOpen, 2023).

<sup>38</sup> William Philbrick et al., "Information and Communications Technology Use to Prevent and Respond to Sexual and Gender-based Violence in Low-and Middle-income Countries: An Evidence and Gap Map," *Campbell Systematic Reviews* 18, no. 4 (2022): e1277.

<sup>39</sup> Philbrick et al., "Information and Communications Technology Use to Prevent and Respond to Sexual and Gender-based Violence in Low-and Middle-income Countries: An Evidence and Gap Map."

<sup>40</sup> *S v Omotoso and Others* (CC15/2018) [2025] ZAECQBHC 8 (2 April 2025).

<sup>41</sup> Section 2(1)(f) and 2(1)(e) of the Prevention of Organised Crime Act 121 of 1998 (POCA),

<sup>42</sup> Section 3 of the Sexual Offences Amendment Act 32 of 2007.

<sup>43</sup> Section 4(1) of the Prevention and Combating of Trafficking in Persons Act 7 of 2013.

<sup>44</sup> Fn. 40 paras 62.

<sup>45</sup> Fn. 40 paras 63.

<sup>46</sup> Makhura B Rapanyane, "Women in Trouble? A Critical Reflection on the Major Hindrances to Addressing Gender Based Violence in South Africa," *African Journal of Gender, Society & Development* 10, no. 4 (2021): 209.

<sup>47</sup> Rapanyane, "Women in Trouble? A Critical Reflection on the Major Hindrances to Addressing Gender Based Violence in South Africa."

practice.<sup>48</sup> Legislative amendments should include mandatory minimum sentences for GBV-related offenses and stricter regulations for bail and parole in such cases. Recent legislative reforms, such as the Criminal Law (Sexual Offences and Related Matters) Amendment Act and the Domestic Violence Amendment Act,<sup>49</sup> reflect a commitment to address GBV more rigorously. However, Widyawati et al. discuss that implementation remains a challenge. Monitoring and accountability mechanisms must be embedded within the justice system to ensure compliance and effectiveness.<sup>50</sup>

Philbrick et al. highlighted that the integration of technology, such as digital case tracking and electronic evidence submission, could enhance efficiency and transparency.<sup>51</sup> They further argued that information and communications technology is used to prevent and respond to sexual and gender-based violence. Legal aid services must be expanded to represent survivors who cannot afford private counsel.<sup>52</sup> International best practices, such as the use of victim advocates in courtrooms and pre-trial hearings, should be adapted to the South African context.<sup>53</sup>

### **Enhancing Community Engagement and Educational Strategies Against GBV**

Addressing GBV acquittals requires more than legal reform; it demands a societal shift in attitudes and behaviours.<sup>54</sup> Community engagement and education are essential in changing the cultural norms that perpetuate gender-based violence and discourage survivors from seeking justice.<sup>55</sup> Grassroots organizations, traditional leaders, schools, and faith-based institutions must be mobilized to challenge misogynistic beliefs and promote gender equality.<sup>56</sup>

Educational campaigns should target youth, focusing on consent, healthy relationships, and bystander intervention. Programs such as Soul City and Brothers for Life have demonstrated the power of media in shaping public perception and behaviour.<sup>57</sup> Community policing forums and local advocacy groups can be crucial in supporting survivors and monitoring local law enforcement. Training community members as paralegals or court advocates can also ensure survivors are guided and protected throughout their legal journeys.<sup>58</sup>

Engagement must also extend to men and boys, fostering positive masculinity and accountability.<sup>59</sup> Interventions should be designed in collaboration with communities to ensure greater relevance and sustainability.<sup>60</sup> Miyamoto asserted that long-term investment in social education will reduce GBV incidence and create an environment where survivors are believed, supported, and empowered to seek justice.<sup>61</sup> The scholar further argued about the sustainable peace and the protection of economic, social, and cultural rights of victims of gender-based violence in post-conflict settings.

<sup>48</sup> Nicole C McKenna and Kristy Holtfreter, "Trauma-Informed Courts: A Review and Integration of Justice Perspectives and Gender Responsiveness," *Journal of Aggression, Maltreatment & Trauma* 30, no. 4 (2021): 450–70.

<sup>49</sup> Domestic Violence Amendment Act.

<sup>50</sup> Anis Widyawati et al., "Supervision in Integrated Justice: Legal Reform and Constructive Enforcement in the Criminal Justice System," *Journal of Law and Legal Reform* 5, no. 2 (2024): 433–58.

<sup>51</sup> Philbrick et al., "Information and Communications Technology Use to Prevent and Respond to Sexual and Gender-based Violence in Low-and Middle-income Countries: An Evidence and Gap Map."

<sup>52</sup> Deborah L Rhode, Kevin Eaton, and Anna Porto, "Access to Justice through Limited Legal Assistance," *Nw. UJ Int'l Hum. Rts.* 16 (2018): 1.

<sup>53</sup> Emma Kaplan, "Mediation and the Criminal Justice System: A Growing Need for a Viable Alternative to Court Litigation," 2022.

<sup>54</sup> A Enaifoghe and T A Idowu, "The Attitudes and Perceptions toward Sexuality and the Social Influence on Gender-Based Violence in South Africa," *African Journal of Public Affairs* 12, no. 1 (2021): 153–70.

<sup>55</sup> Erika Miyamoto, "Towards Sustainable Peace: The Protection of Economic, Social, and Cultural Rights of Victims of Gender-Based Violence in Post-Conflict Settings," *Peace Human Rights Governance* 8, no. Peace Human Rights Governance 8/2 (2024): 179–204.

<sup>56</sup> UNDP, "Guidelines on Engaging with Faith-Based Organizations and Religious Leaders, Engaging Religious and Traditional Leaders for Gender Equality, and Promoting Gender Equality Through Faith-Based Initiatives," accessed April 13, 2025, <https://www.bing.com/ck/a?!&&p=UNDP>.

<sup>57</sup> Enaifoghe and Idowu, "The Attitudes and Perceptions toward Sexuality and the Social Influence on Gender-Based Violence in South Africa."

<sup>58</sup> Siyanda Dlamini and Mandisa Makhaye, "Community Policing as a Panacea for Gender Based Violence Impasse," *African Journal of Gender, Society & Development* 12, no. 2 (2023): 7.

<sup>59</sup> Erin Casey et al., "Gender Transformative Approaches to Engaging Men in Gender-Based Violence Prevention: A Review and Conceptual Model," *Trauma, Violence, & Abuse* 19, no. 2 (2018): 231–46.

<sup>60</sup> Casey et al., "Gender Transformative Approaches to Engaging Men in Gender-Based Violence Prevention: A Review and Conceptual Model."

<sup>61</sup> Miyamoto, "Towards Sustainable Peace: The Protection of Economic, Social, and Cultural Rights of Victims of Gender-Based Violence in Post-Conflict Settings."

## Discussion Summary

Navigating acquittals in gender-based violence (GBV) cases in South Africa presents complex legal, social, and institutional challenges that hinder justice for survivors and perpetuate a cycle of impunity for perpetrators.<sup>62</sup> Despite the introduction of progressive legislation aimed at combating GBV, such as the Criminal Law (Sexual Offences and Related Matters) Amendment Act, among others, and the establishment of specialized sexual offenses courts, conviction rates remain alarmingly low. Acquittals in these cases are often the result of a combination of factors, including inadequate police investigations, insufficient evidence, poor prosecutorial skills, survivor traumatization during cross-examination, and deeply entrenched patriarchal attitudes within the justice system. These issues contribute to survivors withdrawing complaints, losing faith in the legal system, or being retraumatized by court proceedings. Legal scholars and advocacy groups have consistently pointed out that systemic reforms must go beyond legislative amendments and focus on changing institutional cultures and practices within law enforcement and the judiciary. Additionally, societal stigma and victim-blaming continue to influence case outcomes, with survivors often treated with skepticism rather than support.

Improving the legal outcomes in cases of GBV is essential for upholding justice, foster public trust in the criminal justice system, and reinforcing South Africa's commitment to gender equality and human rights.<sup>63</sup> Research indicates that a survivor-centred approach, coupled with well-trained legal professionals, can significantly reduce the acquittals rates and increase reporting rates. Implementing trauma-informed legal procedures, improving evidence-gathering techniques, and ensuring proper legal representation for survivors are crucial steps toward more successful prosecutions. Furthermore, integrating psychosocial support throughout the legal process can empower survivors to engage confidently with the justice system. Addressing acquittals in GBV cases requires a holistic strategy that includes legal reform, institutional accountability, and social transformation to dismantle harmful gender norms and biases.

## RECOMMENDATIONS

To strengthen legal outcomes in gender-based violence cases and reduce the rate of acquittals, South Africa must adopt a multi-faceted and survivor-centred approach. First, there is a need to improve the capacity of the criminal justice system by providing specialized training to police officers, prosecutors, and magistrates in handling GBV cases with sensitivity and competence. Training should include trauma-informed approaches, understanding the dynamics of abuse, and effective evidence collection. Establishing multidisciplinary teams, including legal, medical, and psychosocial professionals, can improve the quality and coordination of GBV investigations and prosecutions. Survivor support services must be expanded and integrated into the legal process. This includes enhanced pedagogies to access legal aid, counselling, safe shelters, and court preparation programs, which can empower survivors to engage meaningfully in the judicial system. Strengthening community-based support networks and promoting awareness campaigns will also help combat stigma and encourage survivors to report abuse. Essentially, the protection of whistleblowers by the state is pertinent because, without protection, people will cease to report, and the perpetrators may be acquitted due to witness withdrawals.

The legal framework should be regularly reviewed and updated to close procedural gaps and ensure the consistency of sentencing and case handling. Specialized GBV courts should be expanded nationally, and enhanced services and standardized practices should be implemented to ensure swift and just outcomes. Monitoring and evaluating the performance of these courts will help identify and address systemic weaknesses. Moreover, collaboration between government departments, civil society organizations, and international partners is essential to create a unified response to GBV. Engaging men and boys in prevention strategies and challenging harmful gender norms, such as patriarchy, among others, through education and media campaigns can contribute to long-term cultural change. Ultimately, we must

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<sup>62</sup> About the recent acquittal of the televangelist of a myriad of charges.

<sup>63</sup> South Africa like the rest of the world must abide by the UNSDG's in promoting a safe and enabling environment leaving with peace and protection of women and the vulnerable.

all look at gender-based violence as human rights issues. We must approach gender-based violence in a humane way for human life to thrive.

## CONCLUSION

The high number of acquittals in cases of gender-based violence (GBV) in South Africa has shown serious problems in the justice system. These issues have made it difficult for survivors to get justice and have caused many people to lose trust in the legal process. Even though there are laws in place to deal with GBV, poor procedures, weak evidence gathering, and unfair treatment in court have allowed many offenders to go free. This has made existing inequalities worse and discouraged survivors from coming forward, as they fear being victimised again by the system. Legal bodies must focus on stronger ways to prosecute cases, better investigations, and a survivor-centred approach to improve this situation. Reforms in policy, along with active community support, also play a key role in helping survivors. This includes providing mental health support, legal advice, and protection for their basic needs. Judges, police, and lawmakers all share the duty to make sure that the law protects survivors and does not allow perpetrators of violence to go unpunished. Without fundamental changes, the system will continue to fail survivors, allowing violence to continue to wreak havoc in society and perpetuating injustice. The Constitution protects human life, and the state must enforce such protection, so people realise it.

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