



Intersectionality and Gender-Based Violence: The role of Constitutional Equality in addressing Marginalised Identities

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ABSTRACT

The purpose of the study is to investigate the complex interplay among democracy, human rights, and social justice in post-apartheid South Africa, with particular focus on the implications of Gender-Based Violence (GBV) and the constitutional frameworks established to protect marginalized identities. Democratic ethos must be upheld, including symbols that stand for a new era, a safer nation embracing humanness without discriminating against others. Humanness should restore dignity. Using a qualitative methodology that includes literature analysis, the study identified persistent dichotomies and double standards that challenge the nation's democratic ideals. Findings revealed that, despite significant advancements, traits from the nation's apartheid past continue to undermine social cohesion and equality, particularly for historically marginalized groups, exacerbating issues such as GBV. The paper highlights the need for a more robust legislative framework to improve protection and redress for human rights violations, particularly in light of the GBV pandemic. The author recommends strengthening existing laws and fostering community-based initiatives that promote accountability and social healing. This study contributes to scholarship by offering a nuanced understanding of the intersection of constitutional equality and GBV in South Africa, highlighting the ongoing struggle for a truly just and equitable society underpinned by the Constitution and the Bill of Rights as the pillars of democratic conquest, protecting the rights of all humans. It underscores the need for sustained efforts towards reconciliation and the active implementation of constitutional values in daily practices.

Keywords: Constitution, Gender-Based Violence, *Ubuntu*, Democracy, Human Rights.

INTRODUCTION

South Africa is at a difficult constitutional moment, where the ideals of equality promised in its democratic transition continue to clash with the lived reality of widespread violence against marginalised groups.¹ Although the Constitution is widely celebrated for its progressive commitments,

¹ South Africa's constitution was set up as the bedrock of its democracy: it's been challenged over last 30 years, but has held firm/
<https://theconversation.com/south-africas-constitution-was-set-up-as-the-bedrock-of-its-democracy-its-been-challenged-over-last-30-years-but-has-held-firm-228556>(accessed 23 November 2025).

particularly to gender justice, these commitments have not been translated into absolute safety or dignity for those most exposed to gender-based violence.² The problem goes beyond weak implementation; it reflects a deeper separation between the constitutional vision and the social systems that continue to reinforce layered, intersectional forms of oppression. GBV is among the most pervasive human rights violations globally, affecting individuals across all societies.³ Its impacts extend beyond immediate victims, often affecting families, communities, and broader social structures. Moreover, humanitarian crises and contexts of social fragility tend to intensify exposure to various forms of GBV, increasing the vulnerability of those already at risk.⁴

The equality clause in the Bill of Rights was designed to reverse centuries of structural discrimination. However, as noted by scholars, South Africa faces a painful contradiction: the country has one of the world's most comprehensive constitutional protections for women, but it also suffers from some of the highest global rates of sexual and gender-based violence.⁵ This contradiction highlights the limits of constitutional equality when faced with the everyday realities of women whose lives are shaped by overlapping social and economic vulnerabilities. Intersectionality is crucial to explaining why constitutional equality has not provided meaningful protection. Researchers show that gender-based violence arises from intertwined forces of racism, class inequality, and patriarchy that combine to intensify women's exposure to harm. South African public discourse often prioritises discussions on race and class while neglecting the gendered power relations that underpin violence.⁶ This uneven attention weakens the transformative potential of constitutional guarantees, as it obscures how gender oppression interacts with other forms of marginalisation.

The legacy of apartheid further complicates efforts to ensure the safety of marginalised identities. Historical analyses reveal that both racism and patriarchy shaped a system rooted in humiliation and domination, with black women carrying the heaviest burden.⁷ These intersecting oppressions continue to shape patterns of violence today, showing that legal equality alone cannot undo the profound and cumulative harms produced by South Africa's past. In addition, vulnerability to GBV is not evenly distributed. Evidence shows that non-white women remain the most at risk and that factors such as race, poverty, and geographic isolation work together to increase their exposure to violence.⁸ This underscores how the broad commitments of constitutional equality fail to address the specific and compounded risks experienced by women whose identities intersect on multiple axes of marginalisation. Another challenge arises from the gap between the progressive values and the social attitudes of the Constitution that persist in communities. Some scholars argue that South Africa has developed a sense of self-deception around gender equality, where formal legal protections exist alongside entrenched cultural and religious practices that continue to suppress women's autonomy.⁹ This creates a dual reality in which public alignment with constitutional values coexists with private behaviours that reproduce violence and inequality.

The judiciary, responsible for giving meaning to constitutional equality, has also struggled to shift societal conditions. Despite the state's constitutional obligation to uphold fundamental rights, South

² The 1996 Constitution of South Africa not only dismantled the legal framework of apartheid but established comprehensive protections for human rights, created robust democratic institutions, and laid the groundwork for a society based on equality and dignity for all citizens.

³ In line with terminology adopted by the Inter-Agency Standing Committee (IASC), the International Organization for Migration (IOM) uses the term "gender-based violence" (GBV) and recognizes that sexual violence is one type of GBV. Other organizations, however, use the term "sexual and gender-based violence". For more explanation, see the IASC Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing Risks, Promoting Resilience and Aiding Recovery (hereinafter GBV Guidelines) (2015), 322.

⁴ https://publications.iom.int/system/files/pdf/iom_gbvic_framework.pdf (accessed 25 November 2025).

⁵ Carolyn S. Stauffer, "The Sexual Politics of Gender-Based Violence in South Africa: Linking Public and Private Worlds.," *Journal of Sociology and Christianity* 5, no. 1 (2015).

⁶ Sophie Allen, "The Importance of an Intersectional Approach to Gender-Based Violence in South Africa," 2018.

⁷ Lyn Snodgrass, "The Sins of the Father: Gender-Based Violence in Post-Apartheid South Africa.," *Commonwealth Youth and Development* 14, no. 2 (2016): 57–70.

⁸ Elisabet Alvarez Merino and Iduabo John Afa, "Exploring the Complexities of Gender-Based Violence in South Africa: A Comprehensive Analysis," *International Journal of Humanities and Social Science (IJHSS)* 15 (2025): 26–38.

⁹ Jennifer Slater, "Gender Voicelessness and Violence in South Africa: The Inner Hypocrisy of Moral Ambiguity Scriptura," *Journal for Contextual Hermeneutics in Southern Africa* 112, no. 1 (2013): 1-12.

Africa continues to be labelled the “rape capital” and “femicide nation.”¹⁰ These labels persist not because of a lack of legal protections, but because legal interventions alone cannot dismantle the deep structural violence embedded in social and institutional practices. The endurance of high levels of violence despite progressive laws is not new. Early research after democracy already noted a large gulf between the formal legal landscape and the daily experiences of women subjected to violence.¹¹ Nearly two decades later, these observations remain accurate, highlighting that the challenge lies not only in the content of constitutional rights but in their inability to reshape persistent cultural patterns and socio-economic inequalities. These inequalities are further entrenched by traditional and cultural practices that continue to undermine constitutional protections. Studies demonstrate that skewed cultural norms trap many marginalised women in cycles of poverty and dependence, making constitutional rights inaccessible in practice.¹² This indicates that the pursuit of equality must extend beyond legal guarantees and encompass the cultural and economic systems that perpetuate exclusion.

The ongoing failure of constitutional equality to protect marginalised groups also reflects broader structural problems. Scholars argue that genuine transformation requires empowering women, addressing the root causes of violence, and building collaborative interventions across sectors.¹³ This reinforces the idea that constitutional equality provides a vital foundation but cannot, on its own, eradicate the complex drivers of gender-based violence. Constitutional equality, though essential, has not succeeded in addressing the intersecting systems of oppression that shape vulnerability to gender-based violence. The South African experience shows that meaningful protection for marginalised identities requires far more than legal commitments. It demands broad societal transformation, structural change, and intentional strategies that confront the racial, economic, cultural, and patriarchal forces that the Constitution alone cannot dismantle.¹⁴ This study aims to demonstrate that constitutional equality, while foundational, is insufficient on its own to address gender-based violence against marginalised identities in South Africa.

METHODOLOGY

The study used a qualitative method to explore intersectionality, marginalization, and GBV in post-apartheid South Africa, alongside a literature review of esteemed scholars regarding the subject line. It addressed how intersectionality shapes experiences of GBV, the role of the Constitution in protecting diverse communities, and societal perceptions of marginalization. This research seeks to inform policymakers and advocates on how to improve constitutional protections and promote inclusivity.

DISCUSSION

Reimagining Humanity in Post-Apartheid South Africa

Post-apartheid South Africa embodies one of the most striking and tragic contradictions of the modern era: a country celebrated globally for its progressive constitutional protection of women’s rights, yet simultaneously home to some of the highest levels of gender-based violence in the world.¹⁵ This contradiction is not an abstract statistical puzzle but a profound moral and human crisis that exposes the gulf between constitutional aspiration and lived reality. Confronting this crisis requires adopting intersectionality not merely as a theoretical lens but as a transformative mode of imagining humanity in a society still carrying the scars of historical injustice. The roots of South Africa’s gender-based violence

¹⁰ Glancina Mokone, “The Constitutional Role of the Judiciary in Cases of Sexual GBV: An Analysis of *Tshabalala v S; Ntuli v S* 2020 (5) SA 1 (CC),” *Obiter* 42, no. 2 (2021): 406–20.

¹¹ Helene Combrinck, “The Dark Side of the Rainbow: Violence against Women in South Africa after Ten Years of Democracy,” *Acta Juridica* 2005, no. 1 (2005): 171–99.

¹² Veronika Wittmann, “Gender and Empowerment in South Africa,” *Multicultural Education & Technology Journal* 6, no. 4 (November 9, 2012): 248–60, <https://doi.org/10.1108/17504971211279518>.

¹³ John Motsamai Modise, Philly Masogo, and Limpopo Gambling Board, “Empowering Women, Building Safety: Strategies for Addressing Gender-Based Violence in South Africa,” *International Journal of Innovative Science and Research Technology*. <https://doi.org/10.38124/Ijisrt/IJISRT24JUL439>, 2024.

¹⁴ The South African experience shows that meaningful protection for marginalised identities requires far more than legal commitments. It demands broad societal transformation, structural change, and intentional strategies that confront the racial, economic, cultural, and patriarchal forces that the Constitution alone cannot dismantle

¹⁵ Stauffer, “The Sexual Politics of Gender-Based Violence in South Africa: Linking Public and Private Worlds.”

epidemic lie deep within the intertwined legacies of apartheid racism and patriarchal domination.¹⁶ These systems operated in mutually reinforcing ways, producing a structure of oppression that profoundly devalued the lives of black women. Apartheid was not only a political system of exclusion; it institutionalised a far-reaching regime of dehumanisation that authorised violence against those rendered powerless, both publicly and privately.¹⁷ These dynamics have not disappeared with democracy; they have been reproduced in contemporary social relations, illustrating how past injustices persist in present-day patterns of control.

In this note, to understand why gender-based violence persists so powerfully in democratic South Africa, it is necessary to recognise how intersecting forms of oppression shape women's lives. Historically, public discourse has emphasised race and class tensions while sidelining the central role of patriarchy in sustaining violence. This selective visibility creates a dangerous blind spot that allows gender oppression to thrive under the appearance of addressing other social problems.¹⁸ For black women in particular, violence does not emerge from one source of oppression but from the collision of racism, sexism, class inequality, and cultural expectations, forming a uniquely compounded vulnerability. The contemporary reality of intersectional violence is devastating in scale and intensity. With at least one in three women projected to experience rape in their lifetimes, South Africa is described by scholars as facing an "unacknowledged gender civil war." This violence is not random; it represents an entrenched system of patriarchal control that uses the body as a site of domination. The continuity between apartheid's normalisation of violence and today's sexualised brutality reveals how deeply embedded coercive control remains as a mechanism for maintaining gendered hierarchies.¹⁹

The crisis is further amplified by the construction of gender roles and the cultural reinforcement of violent masculinities. Scholars show how the "cult of femininity," combined with socially sanctioned forms of aggressive masculinity, creates an artistic environment where extreme gender-based violence becomes disturbingly predictable rather than exceptional.²⁰ These gender constructions are not natural; they are historically produced and politically maintained systems that validate inequality and violence as part of social order. His normalisation highlights the depth of patriarchal entrenchment and the urgency for sustained feminist transformation. Despite constitutional and legislative strides, the lived realities of most South African women tell a different story, one marked by persistent socio-economic deprivation, entrenched patriarchy, and systematic exposure to gender violence. Scholars argue that post-apartheid reforms represent an "incomplete revolution," a transformation that is limited to the symbolic realm while leaving core power structures largely untouched.²¹ The inability to achieve substantive equality underscores the limitations of legal reform when profound cultural and structural changes are not accompanied by it. Understanding gender-based violence also requires grappling with its psychological and relational dimensions. Sideris argues that violence reflects a profound failure of relational recognition, an inability or refusal to acknowledge another person's autonomy and humanity. In contexts where male authority is socially embedded, challenges to patriarchal control can trigger violence as a distorted assertion of dominance.²² This highlights the need for approaches that address not only the socio-economic and political drivers of violence but the psychological dynamics that reproduce gendered harm. Furthermore, Shabalala and others discuss the experiences of black trans women, whose lives reveal the complexity of intersectional violence. Their experiences of racialised, gendered, and transphobic violence demonstrate how multiple systems of domination converge to

¹⁶ Snodgrass, "The Sins of the Father: Gender-Based Violence in Post-Apartheid South Africa."

¹⁷ Helen Moffett, "'These Women, They Force Us to Rape Them': Rape as Narrative of Social Control in Post-Apartheid South Africa," *Journal of Southern African Studies* 32, no. 1 (2006): 129–44.

¹⁸ Allen, "The Importance of an Intersectional Approach to Gender-Based Violence in South Africa."

¹⁹ Moffett, "'These Women, They Force Us to Rape Them': Rape as Narrative of Social Control in Post-Apartheid South Africa."

²⁰ Pumla Dineo Gqola, "How the 'Cult of Femininity' and Violent Masculinities Support Endemic Gender Based Violence in Contemporary South Africa," *African Identities* 5, no. 1 (2007): 111–24.

²¹ Hannah Britton, "The Incomplete Revolution," *International Feminist Journal of Politics* 4, no. 1 (2002): 43–71.

²² Tina Sideris, "Post-Apartheid South Africa: Gender, Rights and the Politics of Recognition: Continuities in Gender-Based Violence?," *Agenda: Empowering Women for Gender Equity Special Issue*, 2005, 100–109.

produce unique patterns of vulnerability.²³ Their hypervisibility being targeted and their simultaneous invisibility being erased illustrate how intersectionality creates overlapping forms of risk that must be central to any meaningful GBV strategy.

Economic marginalisation further reinforces systems of gendered harm. The transition to democracy coincided with economic restructuring that disproportionately affected women, especially those in precarious or informal labour markets.²⁴ These economic vulnerabilities intersect with gendered power inequalities, producing conditions where women's agency is severely constrained. Therefore, the economic dimension of violence is not incidental but part of a broader pattern of structural oppression that makes gender-based violence more likely and more difficult to escape. Reimagining humanity in post-apartheid South Africa demands that intersectionality be positioned at the center of social transformation.²⁵ This involves recognising that addressing gender-based violence requires confronting the multiple systems of race, class, sexuality, gender, and more that create and sustain oppression. An intersectional approach must prioritise gender oppression while also acknowledging the diverse experiences of those affected by violence, allowing interventions that are responsive to the full complexity of marginalisation. Transforming the landscape of gender-based violence also requires challenging the narratives that obscure the role of gender in discussions of violence. GBV is reframed as an issue of race or culture, undermining meaningful debate and reinforcing harmful stereotypes. Disrupting these narratives is essential to building a society capable of confronting violence honestly and developing educational and cultural interventions rooted in the lived realities of those most affected.²⁶

Institutional transformation is equally essential. State, religious, legal, and educational institutions have long been complicit in reinforcing silence and sustaining power structures that enable gender-based violence. Breaking this complicity requires institutional cultures that are not only gender-responsive but also intersectionally aware, centering the voices of those historically excluded from decision-making and knowledge production.²⁷ Faith communities and other social institutions hold significant potential for social transformation, but only if they confront their own historical roles in reinforcing patriarchal and exclusionary norms. Superficial commitments are insufficient; fundamental transformation requires profound cultural change rooted in accountability, intersectional awareness, and sustained engagement with marginalised voices.²⁸ In this regard, reimagining humanity in South Africa requires a fundamental overhaul of the social, cultural, and economic structures that sustain intersecting forms of oppression. Incremental reforms or siloed interventions will not suffice. What is required is a holistic, intersectional movement that addresses the root causes of violence rather than responding to its symptoms. Failure to do so threatens not only the promise of democracy but the very possibility of building a society grounded in shared humanity and justice.

Ubuntu and the Tensions Between Constitutional Ideals and Social Realities

South Africa reflects a painful and unsettling contradiction: it is home to one of the world's most progressive constitutions on gender equality, yet it continues to record some of the highest rates of gender-based violence. This contradiction exposes the distance between constitutional promises and social realities, revealing how deeply entrenched systems of oppression continue to undermine the safety and dignity of women despite robust legal protections. The impressive constitutional framework masks a troubling gap between rights and reality.²⁹ Scholars note that although South Africa's Constitution is celebrated for its inclusive and protective stance toward women, the country simultaneously endures

²³ Siyanda Shabalala, Floretta Boonzaier, and Skye Chirape, "Challenging Ciscentric Feminist Margins: A South African Study on Gender-Based Violence in the Lives of Black Trans Women," *Psychology in Society*, January 1, 2023, 50–80, <https://doi.org/10.57157/pins2023vols5iss1as12s>.

²⁴ Sharon Groenmeyer, "Intersectionality in Apartheid and Post-Apartheid South Africa: Unpacking the Narratives of Two Working Women," *Gender, Technology and Development* 15, no. 2 (2011): 249–74.

²⁵ Allen, "The Importance of an Intersectional Approach to Gender-Based Violence in South Africa."

²⁶ Moffett, "These Women, They Force Us to Rape Them": Rape as Narrative of Social Control in Post-Apartheid South Africa."

²⁷ Stauffer, "The Sexual Politics of Gender-Based Violence in South Africa: Linking Public and Private Worlds."

²⁸ Stauffer, "The Sexual Politics of Gender-Based Violence in South Africa: Linking Public and Private Worlds."

²⁹ Stauffer, "The Sexual Politics of Gender-Based Violence in South Africa: Linking Public and Private Worlds."

extreme levels of sexual and gender-based violence.³⁰ This contradiction, described as both a legal and social crisis, highlights how gender equality remains unfinished business, an aspiration derailed by persistent violence that continues to silence and marginalize women. Understanding this crisis demands recognition of the intersectional systems of domination that have shaped South Africa's social landscape. Gender-based violence does not exist in isolation but results from intertwined forces of racism, classism, and patriarchy that have historically legitimized the domination of women, particularly black women.³¹ This intersection of oppressive structures has produced a culture where gender violence is overshadowed by public debates on race and class, despite patriarchy being central to the violence women endure.

Furthermore, historical analysis shows how apartheid and patriarchy jointly entrenched a culture of domination and humiliation that continues to shape women's vulnerabilities. These mutually reinforcing systems not only dehumanized entire communities but also placed black women at the sharpest edge of violence. The resulting layers of oppression explain why constitutional equality alone cannot undo the harm embedded in South Africa's social and historical fabric.³² Ubuntu, often celebrated as an expression of African humanism, reveals critical shortcomings when examined from a gendered perspective. Although Ubuntu emphasizes communalism and justice, it does not automatically confront unequal gender relations or patriarchal norms. Feminist scholarship suggests that its traditional framing fails to account for women's autonomy and often subsumes the individual female "I" into a male-defined "we," thereby sustaining invisibility and reinforcing gender hierarchies.³³ Other scholars adopt a more critical stance, arguing that ubuntu, as traditionally understood, is incompatible with key constitutional values. Its embedded patriarchal ordering, where rights and roles are distributed according to gender, age, and hierarchy, undermines the constitutional vision of equality.³⁴ This critique challenges romanticized portrayals of Ubuntu by exposing how it can reproduce rather than dismantle systemic gender inequality.

The disconnection between law and lived experience becomes even clearer when we examine everyday institutional and cultural practices. Despite constitutional protections, violence against women persists at alarming rates because key institutions, including families, churches, communities, and even the state, continue to normalise harmful gender norms that diminish women's bodily autonomy and decision-making power.³⁵ This duality gives rise to what some scholars call moral hypocrisy. On the one hand, the Constitution enshrines equality; on the other hand, the social environment reinforces subordination. This contradiction creates symbolic commitments to gender equality while enabling ongoing discrimination, thus weakening the transformative potential of the Constitution and leaving women trapped between legal rights and oppressive realities.³⁶ A core part of the problem is the failure to incorporate a fully intersectional understanding into national discourse. Public narratives still privilege conversations on race and class while marginalizing the central role of gendered power relations.³⁷ This selective framing prevents South Africa from implementing comprehensive strategies that address gender, race, and class simultaneously and holistically.

Emerging perspectives, such as Ubuntu feminism, attempt to bridge this divide. Scholars argue that human rights-only frameworks are insufficient for addressing deeply rooted, gendered insecurities. Instead, approaches must consider communal wellbeing, interdependence, and care while still confronting gender inequality head-on.³⁸ This perspective aims to reconcile collectivist African values

³⁰ Slater, "Gender Voicelessness and Violence in South Africa: The Inner Hypocrisy of Moral Ambiguity Scriptura."

³¹ Allen, "The Importance of an Intersectional Approach to Gender-Based Violence in South Africa."

³² Snodgrass, "The Sins of the Father: Gender-Based Violence in Post-Apartheid South Africa."

³³ John Sodiq Sanni and Diana Ekor Ofana, "Recasting the Ontological Foundation of Ubuntu: Addressing the Problem of Gender-Based Violence in South Africa," *South African Journal of Philosophy* 40, no. 4 (October 2, 2021): 384–94, <https://doi.org/10.1080/02580136.2021.1996143>.

³⁴ Ilze Keevy, "Ubuntu versus the Core Values of the South African Constitution," *Journal for Juridical Science* 34, no. 2 (2009): 19–58.

³⁵ Gabi Mkhize and Fikile Vilakazi, "Rethinking Gender and Conduits of Control: A Feminist Review," *Image & Text*, no. 35 (2021): 1–22.

³⁶ Slater, "Gender Voicelessness and Violence in South Africa: The Inner Hypocrisy of Moral Ambiguity Scriptura."

³⁷ Allen, "The Importance of an Intersectional Approach to Gender-Based Violence in South Africa."

³⁸ Gretchen Erika Du Plessis, "Gendered Human (in) Security in South Africa: What Can Ubuntu Feminism Offer?," *Acta Academica* 51, no. 2 (2019): 41–63.

with feminist principles of individual dignity and equality. However, even with legal reforms and philosophical debates, violence remains normalised within communities, suggesting that legislation alone cannot dismantle entrenched cultural attitudes. The persistence of violence as an accepted social norm highlights the need for more profound cultural transformation and more effective community-based interventions.³⁹ South Africa's constitutional ideals have not been translated into genuine safety or equality for women, especially those who experience overlapping disadvantages. Historical trauma, structural economic inequality, patriarchal customs, and weak implementation of laws collectively create conditions that sustain gender-based violence.⁴⁰ Ubuntu, while valuable, must be critically reinterpreted to make a meaningful contribution to gender justice.⁴¹ Moving forward requires honest reckoning with these contradictions rather than celebratory narratives about constitutional progress. Achieving meaningful equality requires not only legal protections but also a fundamental transformation across cultural, institutional, and economic systems. Without such a change, the rights guaranteed in the Constitution remain symbolic rather than substantive. If applied with a feminist consciousness, Ubuntu's principles of interdependence and shared humanity could support this transformation, but only if its patriarchal elements are confronted and dismantled.⁴² Ultimately, genuine gender equality requires a simultaneous commitment to constitutional principles and deep social reform. South Africa's promise of equality will remain unrealized until lived realities align with legal ideals and women's full humanity is recognised and protected.

Intersectionality, Marginalisation, and the Persistence of Gender-Based Violence

Intersectionality offers a powerful analytical lens to uncover how overlapping systems of inequality shape GBV. This framework interrogates “the intersection of gender with inequalities of race, ethnicity, class, sexuality, age, and other systems of domination.”⁴³ By tracing how these social positions combine rather than operate in isolation, intersectionality exposes the hidden power dynamics embedded in violence, its effects on survivors, and the broader policymaking environment. It is a reminder that GBV is not experienced uniformly; rather, it is mediated through the broader social landscape of marginalisation. Some scholars emphasise that analysing GBV solely through the category of gender is insufficient. Framing GBV narrowly as domestic violence “privileges gender to the extent that intersectionality becomes impossible.”⁴⁴ Such approaches flatten complex realities by ignoring how race, class, sexuality, disability, and migration status reshape women's experiences of violence. Likewise, while gender-based theories have been essential to illuminate patriarchy, they reach a limit when confronted with lived experiences that transcend “simple analytical dichotomies.”⁴⁵ This framework, which situates gender alongside other axes of inequality, including social class, age, disability, ethnicity, sexuality, and citizenship, can better capture the layered nature of violence.

In addition, some scholars also highlight how certain groups of women face increased vulnerability because they occupy multiple marginalised positions. The convergence of “race, class, gender, sexuality, ethnicity, and displacement status” creates a compounding effect.⁴⁶ These women become targets of violence from various actors while simultaneously being denied meaningful access to

³⁹ Anne Outwater, Naeema Abrahams, and Jacquelyn C Campbell, “Women in South Africa: Intentional Violence and HIV/AIDS: Intersections and Prevention,” *Journal of Black Studies* 35, no. 4 (2005): 135–54.

⁴⁰ South Africa's constitutional ideals have not translated into genuine safety or equality for women especially those who experience overlapping disadvantages.

⁴¹ Ubuntu, as a concept rooted in traditional African values, plays a crucial role in contributing to gender justice and social justice. It emphasizes communal relationships, interconnectedness, and mutual respect, which are essential for fostering inclusive societies. Ubuntu promotes human dignity and respect for others, aligning with the principles of gender justice by ensuring that all individuals are treated with dignity and respect.

⁴² Chapter Two of the Constitution of South Africa contains the Bill of Rights, a human rights charter that protects the civil, political and socio-economic rights of all people in South Africa.

⁴³ Lise Rolandsen Agustín and Emanuela Lombardo., “Intersectionality.,” in *Handbook on Gender and Violence* (Edward Elgar Publishing, 2019), 43–60.

⁴⁴ Sofia Strid and Mieke Verloo., “Intersectional Complexities in Gender-Based Violence Politics.” (Intersectionality in feminist and queer movements , 2019).

⁴⁵ Raquel Guzmán Ordaz and María Luisa Jiménez Rodrigo., “Intersectionality as an Instrument for the Analysis and Interpellation of Gender Violence,” *Oñati Socio-Legal Series (OSLS)* 5, no. 2 (2015): 596–612.

⁴⁶ M T Abdulgani, “An Intersectionality Approach to Addressing Gender-Based Violence Against Internally Displaced Women Living in IDP Camps in Northern Nigeria,” *International Journal of Research and Innovation in Social Science* 8, no. 9 (2024): 3277–95.

justice, social support, and state protection. Comparable patterns are evident elsewhere. Entrenched social biases inform how survivors are perceived and treated.⁴⁷ For Dalit women, this manifests in “triple subjugation,” the simultaneous burden of caste, gender, and class, which magnifies exposure to GBV and heightens barriers to reporting, redress, and care. Evidence also shows that intersectionality exposes violence not as a series of individual incidents but as a structural phenomenon embedded in social institutions. Structural and systemic constraints severely limit women’s access to support services.⁴⁸ This highlights how racialisation, poverty, persistent inequality, and multidimensional forms of violence often fall outside the scope of universal or “one-size-fits-all” interventions. Similarly, other scholars reveal how the COVID-19 pandemic intensified intersecting vulnerabilities. Domestic workers, older women, women with disabilities, and those living in marginalised communities faced disproportionate risks, as overlapping discrimination and socio-economic precarity amplified their exposure to violence and undermined available protections.⁴⁹ Collectively, these studies point to a significant disconnect between intersectional theory and its practical application in GBV policy responses. Tastsoglou and Freedman call for “situated and contextual analyses” that recognise both the national specificities of violence and its global roots, particularly in migration contexts.⁵⁰ Their work underscores the central role of the state in mitigating or reproducing the structural conditions that enable GBV. The growing body of research makes clear that effective prevention and response strategies must move beyond narrow, gender-only models. Guzmán asserts that:

‘[A]n intersectional “multidimensional framework” is vital for studying and addressing violence against women. Such an approach captures experiences typically excluded from dominant definitions of GBV and ensures that responses are grounded in the realities of those most systematically marginalised.’⁵¹

For this reason, the paper proposes an intersectional approach that recognises how gender interacts with other layers of inequality, such as social class, age, sexual identity, disability, and race, to shape women’s vulnerability to violence and limit their access to justice.

Mogoeng CJ, in *F v Minister of Safety and Security*, expressed deep concern about the way gender-based violence continues to entrench the subordination of women in South African society.⁵² He observed that such violence strikes the heart of women’s dignity, freedom, and the ability to exercise self-determination. The Chief Justice lamented that many women and girls do not feel safe walking alone in public spaces, particularly at night, because sexual violence remains disturbingly common, a reality reflected in the country’s crime statistics.⁵³ This ongoing crisis persists even though the Constitution, national legislation, civil society organisations, and communities have all taken firm positions against the indignity and harm inflicted on women and girl-children. Gender-based violence continues to be a pressing global problem, entrenched in unequal power relations and social norms, and disproportionately affecting people whose identities intersect across race, class, gender, sexuality, and ability.⁵⁴ Although often understood primarily as physical or sexual harm to women, gender-based violence takes many forms, including emotional abuse, economic marginalisation, and discriminatory practices embedded within institutions and policies.

⁴⁷ Julie George, “Intersectionality at the Heart of Oppression and Violence against Women,” *Journal of Moral Theology* 12, no. SI 1 (2023): 108–31.

⁴⁸ Beverley M Essue et al., “Women’s Experiences of Gender-Based Violence Supports through an Intersectional Lens: A Global Scoping Review,” *BMJ Public Health* 3, no. 1 (2025).

⁴⁹ Nobuhle Judy Dlamini, “Gender-Based Violence, Twin Pandemic to COVID-19,” *Critical Sociology* 47, no. 4–5 (2021): 583–90.

⁵⁰ Evangelia Tastsoglou and Jane Freedman, “Gender-Based and Intersectional Violence in Migration and Refugee Contexts: A Contextual Global Approach,” *International Sociology* 40, no. 6 (November 2025): 924–43, <https://doi.org/10.1177/02685809251347939>.

⁵¹ Guzmán Ordaz and María Luisa Jiménez Rodrigo, “Intersectionality as an Instrument for the Analysis and Interpellation of Gender Violence.”

⁵² *F v Minister of Safety and Security and Another* (CCT 30/11) [2011] ZACC 37; 2012 (1) SA 536 (CC); 2012 (3) BCLR 244 (CC); (2012) 33 ILJ 93 (CC); 2013 (2) SACR 20 (CC) (15 December 2011). Nomthandazo Ntlama, “Gender-Based Violence Ignites the Re-Emergence of Public Opinion on the Exercise of Judicial Authority,” *De Jure Law Journal* 53, no. 1 (2020): 286–306.

⁵³ *F v Minister of Safety and Security* para 56.

⁵⁴ <https://genderjustice.org.za/sonke-mea-africa-combatting-gbv-through-intersectional-approaches/> (accessed 07 December 2025).

Strengthening Legislative and Institutional Frameworks for Human Rights Protection

The global response to gender-based violence remains deeply inadequate and fails to protect millions of women who live at the intersections of multiple forms of discrimination. Although international frameworks now widely recognise gender-based violence as a violation of human rights, most legal and institutional mechanisms still rely on narrow, one-dimensional understandings of violence. These simplified approaches continue to exclude the most vulnerable groups, reproduce inequality, and obstruct justice. What is required is not minor reform but a complete transformation of how states and institutions conceptualise and address violence, placing intersectionality at the centre, not as an optional theoretical tool but as a foundational principle for adequate protection. The shortcomings of traditional gender-based analysis have become increasingly difficult to ignore. Although early gender-focused approaches were vital in exposing patriarchy as a structural force, they falter when confronted with the layered realities of women whose identities span multiple categories of inequality. These frameworks do not account for how class, age, sexuality, disability, race, ethnicity, and citizenship status shape women's experiences of violence. This analytical narrowness results in policy gaps that leave those most affected by intersecting discrimination with little to no legal protection or access to justice.⁵⁵ This is not simply a theoretical limitation; it is a direct contributor to systemic policy failure. In this sense, intersectionality offers an alternative that seeks to understand women as whole persons operating within complex systems of oppression. The "intersectional integrity" framework illustrates how violence cannot be understood through gender alone, but must be mapped across multiple identities, including race, religion, caste, nationality, disability, and sexual orientation. This holistic framework exposes patterns of harm that remain invisible in mainstream analysis and highlights discriminatory practices that would otherwise go unchallenged.⁵⁶ Failure to adopt such approaches is not simply an academic oversight; it undermines the fundamental promise of equal protection for all women. The consequences of neglecting intersectionality are visible in legislative and institutional failures in various regions.

For instance, although global bodies such as the United Nations, the Council of Europe, and the Inter-American System increasingly reference intersectionality, its application remains inconsistent and fragmented.⁵⁷ This inconsistency creates dangerous protection gaps for women who do not fit into single-axis legal categories. The experience of Roma women and girls in Croatia illustrates these shortcomings vividly. Despite the country's formal commitments to human rights instruments, intersectional discrimination, particularly in cases involving forced and early marriage, remains unaddressed mainly by judicial authorities.⁵⁸ This illustrates how legal systems that fail to acknowledge intersectional realities inadvertently perpetuate the violence they are intended to prevent. The effects of these systemic failures are devastating. Studies on internally displaced women in Northern Nigeria reveal how compounded vulnerabilities intensify exposure to violence.⁵⁹ These women experience harm not only because they are women, but because displacement has fractured community structures, creating conditions that invite further abuse while simultaneously limiting access to essential health, legal, and social services. When institutions do not address these intersecting realities, they effectively abandon the women most in need of protection.⁶⁰

The response of the justice system to intersectional violence further underscores the urgent need for reform. Research in India demonstrates how entrenched stereotypes and social biases shape the treatment of survivors, often denying them fair access to support or justice. Dalit women, for example, face overlapping discrimination based on caste, gender, and class, which deepens their vulnerability and

⁵⁵ Guzmán Ordaz and María Luisa Jiménez Rodrigo., "Intersectionality as an Instrument for the Analysis and Interpellation of Gender Violence."

⁵⁶ Shreya Atrey, "Lifting as We Climb: Recognizing Intersectional Gender Violence in Law," *Oñati Socio-Legal Series* 5, no. 6 (2015): 1512–35.

⁵⁷ Lorena. Sosa, *Intersectionality in the Human Rights Legal Framework on Violence against Women: At the Centre or the Margins?* (Cambridge University Press, , 2017).

⁵⁸ Maja Munivrana and Darija Zeljko Mrljak, "Fighting Intersectional Violence against Roma Women and Girls-The Case of Croatia," *JEMIE* 24 (2025): 30.

⁵⁹ Abdulgani, "An Intersectionality Approach to Addressing Gender-Based Violence Against Internally Displaced Women Living in IDP Camps in Northern Nigeria."

⁶⁰ Abdulgani, "An Intersectionality Approach to Addressing Gender-Based Violence Against Internally Displaced Women Living in IDP Camps in Northern Nigeria."

obstructs their pursuit of justice.⁶¹ When legal systems prioritise rigid proceduralism over substantive protection for marginalised groups, they become complicit in the very harm they purport to remedy. Adopting intersectional approaches is not only theoretically sound, but it has practical benefits for prevention, protection, and institutional transformation. An intersectional perspective allows us to understand how different women and LGBTQI people experience discrimination and violence in distinct ways. It also places responsibility on states and non-state actors to create conditions that reduce vulnerability and expand access to rights.⁶² This approach goes beyond documenting harm to actively reshaping the institutional and social conditions that reproduce inequality. Remember, international legal frameworks have made considerable progress in articulating the right of women to live free from violence, and civil society plays a crucial role in advancing these protections.⁶³ However, significant gaps remain. Progress is hindered by inadequate implementation, a failure to address harmful norms, and a lack of intersectional consideration in legal design. Legal frameworks that overlook intersectionality cannot effectively guide social change or mobilise the collaborative efforts necessary to combat multiple, overlapping forms of discrimination.⁶⁴

In this case, the way forward requires rethinking how international, regional, and domestic systems address gender-based violence. Therefore, research from other scholars highlights the need for better alignment between national laws and international standards, grounded in a genuine understanding of intersectionality.⁶⁵ Such alignment requires systemic reforms, including the training of legal practitioners, multidimensional strategies for prevention and protection, and improved data collection that captures the realities of women who face multiple forms of marginalisation. Anything less risks reinforcing the very inequalities these frameworks aim to dismantle. The evidence is unequivocal: relying on single-axis approaches to gender-based violence has produced systemic failures that deny protection to the most vulnerable women. Intersectionality offers a more comprehensive approach that captures experiences traditionally excluded from dominant definitions of gender-based violence. It is not an academic luxury but a practical necessity to build effective protection systems. Without its integration, legal and institutional systems will continue to overlook the women most at risk.⁶⁶ Intersectionality provides the only viable foundation for reimagining human rights protection for all women. The failures of current systems are not minor flaws that can be corrected over time; they are structural problems that require complete reconstruction. Every delay in implementing intersectional frameworks perpetuates injustice and allows violence at the intersections of race, class, sexuality, disability, nationality, and other identities to continue unchallenged. The moral, legal, and human imperative is clear: intersectionality is not optional; it is essential for justice.

CONCLUSION

This study has demonstrated that the attainment of democracy in South Africa in 1994 marked a profound moment of hope and a renewed commitment to human dignity after decades of systemic violence and oppression under apartheid. Democracy rewrote the nation's narrative, one long subjected to degradation and discrimination, offering the promise of a unified, diverse society grounded in the values of the Constitution. However, despite these aspirations, the country continued to grapple with stark dichotomies and enduring social inequities that undermined the promise of a free, fair, and harmonious society. The study further revealed that the Ubuntu philosophy symbolised an ideal of collective humanity, respect, and dignity, but its transformative potential was challenged when gendered and intersectional inequalities persisted. This paper examined the role of intersectionality and constitutional equality in addressing the vulnerabilities of marginalised identities, particularly those

⁶¹ George, "Intersectionality at the Heart of Oppression and Violence against Women."

⁶² Niamh. Reilly, "Women, Gender, and International Human Rights: Overview," *International Human Rights of Women*, 2019, 1–18.

⁶³ For instance, various legal instruments, treaties, and conventions have been established to uphold the rights of women across different spheres of life. These frameworks provide a robust foundation for addressing gender-based discrimination, violence, and inequality on a global scale.

⁶⁴ Jeni Klugman, "Gender Based Violence and the Law," *World Development Report Background Paper*, 2017.

⁶⁵ Stince Sidayang et al., "Addressing Gender-Based Violence: Comparative Analysis of International Legal Frameworks and Practices," *The Easta Journal Law and Human Rights* 1, no. 03 (June 30, 2023): 147–57, <https://doi.org/10.58812/eslhr.v1i03.91>.

⁶⁶ María Luisa Jiménez Rodrigo, "Gender Equality Policies and Intersectionality: Strategies and Keys to Articulation," *Convergencia* 29 (2022).

disproportionately affected by gender-based violence. It argued that, although the Constitution and the Bill of Rights provided the legal foundation for protecting human rights, the legacies of historical oppression, structural inequalities, and social norms continued to limit the realisation of these rights. Thirty years into democracy, the vision of an equitable and just society remained incomplete, underscoring the urgent need for strengthened legislative and institutional mechanisms to ensure redress, protection, and the substantive enforcement of human rights. Achieving genuine equality and safeguarding marginalised communities required not only robust legal frameworks but also sustained social commitment to confronting past injustices, dismantling structural barriers, and embedding intersectional principles into governance and public policy.

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