

Tackling gender-based violence by giving sexual abuse survivors a voice and support

Professor Lilian Artz

The government has appointed the president's special advisor to work with the department of justice and constitutional development in responding to the high levels of violence and femicide against women and children. Gender-based violence can take many forms, from unwanted verbal sexual advances to physical acts of violence.

During the first presidential Gender-Based Violence Summit in November 2018, President Cyril Ramaphosa stated that "our society is too tolerant of violence against women, often putting pressure on women to withdraw charges against the perpetrators". During the launch of the election manifesto for ANC, the resident repeated his call to unite against rape and sexual assault and outlined a number of measures to tackle the problem, including harsher sentences for perpetrators and better equipped police and prosecution authorities.

The president's initiative comes amid a newly released report by the South African Police stating that an average of 110 rapes are reported every day – one of the highest rates in the world. According to the Crime against Women in South Africa report, there has been a 53% increase in sexual offences against women between 2015 and 2017 (up from 31 665 cases in the 2015/16 to 70 813 cases in 2016/17). The actual numbers are probably higher, as many incidents of sexual violence go unreported. Furthermore, many perpetrators are never brought to justice, which means they continue to abuse vulnerable women and children.

Gender, health and justice research

In an effort to contribute to the conversation about gender-based violence prevention, the Gender, Health and Justice Research Unit at University of Cape Town is generating scientific research to inform law and policy change and support advocacy programmes. The researchers at the unit focus on evidence-based advocacy to highlight gaps in human rights and violence prevention laws, the discrepancies between domestic laws and international commitments, and challenges in the implementation of these human rights laws in health, justice and social development sectors.

In South Africa, the unit's main violence prevention focus has been on a project funded by United States Agency for International Development to improve case outcomes and services to survivors of sexual violence through Sexual Offences Courts and to build capacity for improved services through professional development training.

The department of justice and constitutional development's partnership project commenced with an extensive baseline study on access to services for survivors of sexual offences cases at five regional courts. This baseline study included a detailed quantitative analysis of case turnaround times, bottlenecks which contributed to limited access to justice for survivors, training needs assessments for court



The rate of violence against women in South Africa is among the highest in the world. Ongoing training for staff who work in Sexual Offences Courts is essential. Photo: Supplied

personnel and the development of recommendations to improve case outcomes.

The recently published pilot study on the Sexual Offences Courts reflects the challenges that these courts face, with one of the recommendations being capacity building or training for service providers. These capacity building measures also included a focus on the evaluation of child witnesses, understanding forensic evidence, using social science research in the courtroom and practices in rape trial procedures and sentencing – all with the aim of minimising the secondary trauma usually experienced by sexual offences survivors in court.

The Sexual Offences Courts model

The Sexual Offences Courts model was re-established in 2014, at 57 courts across South Africa, following a study by the department of justice and constitutional development, which found that these courts are needed to provide specialised services to sexual offences complainants within the justice system. The objective of these courts is to improve the experiences of sexual assault survivors, as well as to increase conviction rates for sexual offenders.

However, the "success" of the re-establishment of these courts is still being questioned, given that the conviction rates in these courts are still relatively low. The research identified the challenges faced by these courts and interrogated the prem-

ise that increased conviction rates were a sound indicator for improving the experiences of sexual assault survivors in the criminal justice system.

Giving survivors of sexual violence a voice

The trainings for service providers have been evaluated during follow-up visits with court officials to assess its impact, with many of the prosecutors pointing to the value of the child witness training. All participants reported that they felt more knowledgeable, aware and better equipped to deal with cases involving children.

There were two key areas in which this increased knowledge and confidence had played out in their day-to-day work. Prosecutors reported positive outcomes relating to the way they consulted with and questioned children, as well as the processes and procedures they followed in dealing with child cases. Most importantly for the court personnel was to give the survivor a voice in court by letting them tell their story and providing counselling to help them heal.

Measuring the success of case outcomes

Dr Aisling Heath, senior research officer at the Gender, Health and Justice Research Unit and one of the authors of the report, adds: "When we think of successful case outcomes we immediately think of 'convictions', and while convictions are extremely

important and the pinnacle of justice in our system, often convictions are hard to secure, and we have to look at other ways in which we measure success in the courts."

The report showed that court personnel, particularly the prosecutors, are measured on outdated and unrealistic terms when looking at performance indicators – namely on the number of convictions. It was further revealed that quick convictions could be achieved if the accused pleads guilty or solid DNA evidence is available. More complicated cases, or cases where there have been postponements due to human resource issues or lack of evidence, can take up to 18 months or may not result in a conviction at all. Yet, the prosecutor is measured on the same scale as his colleague who reached a quick conviction after a guilty plea. This can be very demotivating for prosecutors, and more disturbingly it causes them to screen out "unwinnable" cases at early stages, which is a clear dereliction of duty to the survivor.

Hence, the report suggests reconsidering and adapting performance indicators, such as the National Prosecution Authority's merit system or the judiciary's bench hours, for specialised staff. According to Heath and her team, the current indicators do not consider the specialised nature of sexual offences cases and the specific elements of sexual offences cases, which are beyond the prosecutors' or the presiding officers' control, and affect turnaround times and finalisation rates.

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Conviction rates are not the only measure for demonstrating the benefits of Sexual Offences Courts