



# Enhancing Police and Judicial Accountability in Gender-Based Violence Cases: Addressing Corruption, Inefficiency, and Victim-Blaming in Law Enforcement and the Judiciary

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**Abstract:** Gender-Based Violence (GBV) remains a pervasive issue worldwide, exacerbated by systemic failures within law enforcement and judicial institutions. Corruption, inefficiency, and victim-blaming practices hinder justice for survivors and perpetuate a culture of impunity. This qualitative study employs a systematic review, using indirect observation schedules to identify and describe existing literature. Using inductive textual content analysis, this article examines the structural and procedural barriers that compromise police and judicial accountability in GBV cases. It explores the impact of corrupt practices, institutional inefficiency, and societal biases that shift blame onto victims rather than holding perpetrators accountable. Drawing on case studies and legal frameworks, the article advocates for targeted reforms, including stricter anti-corruption measures, specialized training for law enforcement and judicial officers, and survivor-centred approaches to justice. Strengthening accountability mechanisms within the police and judiciary is crucial to ensuring effective responses to GBV, fostering public trust, and upholding the rule of law. The findings of this study reveal systemic failures in police and judicial accountability in handling GBV cases in South Africa. These failures are rooted in institutionalized corruption, inefficiency, and victim-blaming attitudes, which collectively undermine justice for survivors and perpetuate a culture of impunity.

**Keywords:** Gender-based violence, Victims, Survivors, South African Police Services, Criminal justice system, National Prosecuting Authority, Independent Police Investigative Directorate.

## Introduction

The entrenched patriarchal values of African nations undeniably shape the legislation aimed at addressing the issue of gender-based violence in Africa. Although some African nations have enacted legislation and established institutions to contest customary norms and combat gender-based violence (GBV), many others have shown enthusiasm for implementing laws that seem proactive against this issue yet lack the necessary political will for enforcement. Numerous law enforcement entities are required to investigate and prosecute crimes. These organisations frequently fail to consider gender-based violence in the domestic realm as offences deserving of their focus.

The occurrences in South Africa underscore significant deficiencies, particularly in the management and documentation of GBV cases within our Justice System. These deficiencies are evident due to inadequate police response, prosecutorial delays, unresolved cases, and the absence of justice, closure, or redress for survivors. Two significant instances left South Africans feeling stunned and received extensive media coverage. The rape of Cwecwe, a seven-year-old girl, occurred in the Eastern Cape. The child's mother recounted her experience on social media, highlighting the alarming lack of urgency exhibited by the South African Police Service (SAPS) in addressing the crime. Subsequently, public indignation ensued as protests erupted nationwide, demanding prompt justice and systemic reform. The acquittal of Pastor Timothy Omotoso, a foreign national, occurred after he faced grave charges of rape, sexual assault, and people trafficking, purportedly owing to a technical blunder by the National Prosecuting

Authority (NPA). The not guilty verdict profoundly affected the survivors of his purported offences. It was, in fact, a setback for all those who persist in the struggle against gender-based violence in South Africa. The verdict conveys a grim message to survivors: You Are on Your Own, Statistics South Africa Report on Quarterly Labour Force Survey (2025).

The Independent Police Investigative Directorate (IPID), the supervisory agency for the SAPS, gets several annual reports regarding torture allegations; yet, a prevailing culture of impunity persists due to the infrequency of prosecutions and convictions of the implicated personnel. Despite the reformation of the constitution and the legislature, law enforcement continues to infringe against fundamental rights. This is, in a sense, alarmingly prevalent.

This paper critically examines the accountability of the SAPS and the broader criminal justice system in their handling of GBV cases. It investigates the systemic challenges of corruption, inefficiency, and victim-blaming within both law enforcement and judicial processes, which continue to undermine justice for GBV victims/survivors. Attention is given to the ways in which these institutional shortcomings contribute to the miscarriage of justice, thereby eroding public trust in the criminal justice system. By unpacking instances of procedural failures and corrupt practices, this study aims to highlight how these factors obstruct effective responses to GBV and perpetuate a culture of impunity. The analysis draws on case law, official reports, and scholarly literature to propose strategies for strengthening institutional accountability and improving the treatment of GBV victims within the justice system.

It will be contended that no singular factor accounts for the widespread failures and corrupt practices within law enforcement agencies; instead, these issues stem from an environment where law enforcement officers and their superiors are justified in believing they will not be held accountable for infringing upon the rights of individuals under their care and custody.

### **Material and methods**

This study adopted a qualitative research design aimed at exploring the background and systemic challenges associated with police and judicial accountability in handling Gender-Based Violence (GBV) cases in South Africa. The qualitative approach was deemed suitable as it allows for an in-depth understanding of the structural, procedural, and socio-cultural dimensions that shape the responses of law enforcement and judicial institutions to GBV incidents. The research drew on a combination of primary and secondary data sources. A comprehensive review of *legislative frameworks, policy documents, and international conventions* relevant to GBV was undertaken. These included, among others, the Domestic Violence Act (Act No. 116 of 1998), the Sexual Offences and Related Matters Amendment Act (Act No. 32 of 2007), the National Strategic Plan on GBVF (2020–2030), and relevant provisions of the South African Constitution (1996).

In addition, *reports and publications* from oversight bodies such as the South African Human Rights Commission (SAHRC), the Independent Police Investigative Directorate (IPID), and the Department of Justice and Constitutional Development (DoJ & CD) were examined to evaluate patterns of accountability and institutional responses to GBV. *Media reports and publicly documented GBV cases* were also analysed to assess how corruption, inefficiency, and victim-blaming manifest in practice. Prominent cases that shaped public discourse and legal reforms were purposively selected to illustrate recurring accountability gaps.

### **Background**

In reaction to gender-based violence, South Africa has established frameworks, legislation, and numerous policies in accordance with international norms. The Domestic Violence Act No. 116 of 1998 and the Criminal Law (Sexual Offences and Related Matters) Act. Two significant statutes addressing violence against women are numbered 32 and 2007. The National Gender Policy Framework, the Employment Equity Act, and the Promotion of Unfair Discrimination Act emphasise gender equity. South Africa ratified several international treaties, including the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women in the Workplace (Mpani & Nsiband, 2015). South Africa possesses a variety of progressive legislation and programs. The problem, as noted by Moosa (2012, referenced in Mpani & Nsiband, 2015), is specifically to their execution. President Ramaphosa recently introduced a strategic initiative to address gender-based violence in September 2019, in response to the national outrage following the rape and death of Uyinene Mrwetyana. In 2020, Parliament deliberated on three GBV Bills. The foundation of the new policy is them; it is referred to as the National Calculated Plan for Gender-based Violence and Femicide. The legislation comprises the National Register for Sex Offenders, the Domestic Violence Amendment Bill, and the Criminal Law (Sexual Offences and Related Matters) Amendment Bill. These proposed legislations address the issues concerning the police's inadequate response to domestic violence reports, bail terms for offenders, and the acquisition of Protection Orders. Individuals may now

submit online applications for Protection Orders, and parole will be subject to more stringent terms. Additionally, the National Register of Sex Offenders will be accessible to the public (Pilane, 2020).

The plan encompasses a budget allocation exceeding R1 billion, which includes the clearance of backlogs in forensic laboratories, the recruitment of additional personnel for sexual offences courts, the procurement of evidence-collection kits, and the training of police, prosecutors, magistrates, and policymakers to provide services to survivors (Smit, 2019). Nevertheless, the murder of the pregnant Tshogofatso Pule, aged 28, in June 2020, exposed the ongoing nature of the issue. This situation drove protestors to take to the streets throughout the lockdown period (Fihlani, 2020), as they believed it was far from concluding. Furthermore, one may critique the government's plan for emphasising remedies while overlooking the underlying causes of GBV. The formulation of these laws and regulations has incorporated the perspectives of academics, NGOs, governmental agencies, labour unions, and faith-based organisations. This was executed with contributions from several stakeholders. Nonetheless, the inquiry seems inadequate in soliciting the perspectives of men, women, and corporate representatives regarding the causes and responses to GBV.

### Literature

Systemic police failures meant that the courts struck off 84 gender-based violence cases within the 3rd quarter of 2023. The Western Cape Department of Police Oversight along with Community Safety's (POCS) Court Watching Briefs (CWB) unit monitored 265 cases at 10 courts in the third quarter, October 2023 to December 2023. According to unit reports, these courts preside over 35 SAPS stations throughout the province. Owing to systemic inefficiencies within the SAPS, all 265 cases were struck off the court roll. Eighty-five (32%) out of the 265 monitored cases during quarter three related to GBV. When we do consider quarters one and two, this means that it is because of SAPS' inefficiencies an unacceptably high number of 174 GBV matters were struck off the roll between April and December in 2023.

The CWB Unit is an initiative of POCS to enhance their ability to perform oversight of the SAPS as mandated by Section 206(3) of the Constitution. Both reports have been shared with the SAPS. The courts that were monitored are in Athlone, Atlantis, Bellville, Blue Downs, Khayelitsha, Kuilsriver, Mitchells Plain, Philippi, Wynberg, and Paarl. The SAPS stations attached to these cases are Athlone, Atlantis, Belhar, Brackenfell, Claremont, Delft, Diep River, Grassy Park, Gugulethu, Harare, Hout Bay, Khayelitsha, Klappmuts, Kleinvelei, Kraaifontein, Kuilsriver, Lansdowne, Lentegeur, Lingeletu West, Manenberg, Mbekweni, Mfuleni, Mitchells Plain, Mowbray, Nyanga, Paarl, Paarl East, Philadelphia, Philippi, Philippi East, Ravensmead, Rondebosch, Samora Machel, Steenberg, and Wynberg.

### Status of GBV cases monitored: Quarter

#### 3 October 2023 - December 2023

| Categories of inefficiencies: Quarters 1 and 2           | GBV Count |
|--|-----------|
| Cases withdrawn because the dockets were not at court    | 46        |
| Cases withdrawn because the investigation was incomplete | 36        |
| Witnesses not subpoenaed                                 | 3         |
| <b>TOTAL</b>   | <b>85</b> |

*Source: Adapted from Western Cape Department of Police Oversight and Community Safety, Court Watching Briefs Unit Report, 2023.*

Top three SAPS stations where cases were struck off the roll were: Atlantis (17); Kleinvelei (11); and Kraaifontein (9). Western Cape Premier, Alan Winde said: "These statistics are an indictment on the SAPS, its leadership and the entire criminal justice system. The very authority which is tasked to serve and protect citizens are dismally failing them, and this is largely in poor communities where the most vulnerable live. GBV is an epidemic, and it continues to fester in our society leaving our women and children at risk when those accused are never held accountable. What is even more concerning is that these numbers only represent a sample of the cases in the system, which means there could be further failures and injustices being perpetuated.

Western Cape MEC of Police Oversight and Community Safety, Reagen Allen, said, “I note that actions have been taken by SAPS where necessary, to address these failures. Some, which I welcome are the seventeen (17) sanctions imposed against SAPS members for incomplete investigations, six (6) warrants of arrests issued and one (1) individual that has been found guilty. It is however deeply concerning that twelve (12) matters were withdrawn by complainants, which also led to cases being struck off the roll. We will engage the GBV Transversal Forum to increase advocacy to vulnerable groups around the scourge of GBV and why perpetrators should be arrested and prosecuted.”

### **Methodology**

This qualitative study employs a systematic review methodology to examine structural and procedural barriers to police and judicial accountability in GBV cases in South Africa. The study analyses existing literature, including case law, commission reports, government policies, and scholarly articles, to identify patterns of corruption, inefficiency, and victim-blaming. Inductive textual content analysis is applied to categorize themes such as institutional failures, survivor experiences, and oversight mechanisms for it ensures a thorough assessment of systemic gaps. To triangulate the findings and to improve validity, the study prioritises secondary data coming from authoritative sources. These sources include the Mokgoro (2019) as well as Zondo (2022) Commissions, judicial rulings (*President of RSA v Mahlangu*, 2021; *S v Baloyi*, 2000), with empirical studies (e.g., Gender Justice Report, 2022).

To contextualise the data, the study adopts through a feminist legal theory lens, and it critiques how patriarchal norms embedded in law enforcement and judiciary practices perpetuate impunity. Evidence-based reforms are proposed by the methodology which incorporates comparative analysis of oversight models from jurisdictions such as Namibia and Brazil. There are limitations in relying on documented cases that might underrepresent unreported gender-based violence incidents and in the quickly evolving nature of policy implementation that may not fully capture recent institutional changes. Nevertheless, such an approach thus rigorously allows diagnoses of such systemic failures. Within South Africa’s criminal justice system, this approach advocates transformative accountability measures too.

The study employs a purposive sampling strategy for its systematic review, rather than one aimed at statistical representativeness (Patton, 2015). The rationale for selecting specific cases is their seminal nature and high relevance in exposing systemic accountability failures in GBV cases within South Africa. These sources were selected as critical cases that provide rich, information-intensive insights into the research problem (Yin, 2018). The goal is analytical depth and theoretical saturation, understanding the mechanisms of failure, rather than numerical generalization. This approach is standard in qualitative, policy-oriented research where the objective is to understand complex phenomena through authoritative and illustrative examples.

To mitigate internal biases inherent in the collected verbal, textual, and visual data, this study employed several rigorous qualitative strategies. Firstly, data triangulation was utilized by drawing from multiple source types, including legislative documents, commission reports, judicial rulings, scholarly literature, and media accounts, to cross-verify facts and identify consistent patterns of institutional failure, thereby reducing reliance on any single potentially biased narrative (Patton, 2015; Denzin, 2017). Secondly, a reflexive approach was maintained throughout the analysis, where researchers actively acknowledged their positionality and potential interpretative biases, particularly when engaging with survivor testimonies and accounts of systemic discrimination (Finlay & Gough, 2003). Thirdly, an inductive textual content analysis allowed themes of corruption, inefficiency, and victim-blaming to emerge organically from the data rather than being imposed by preconceived frameworks (Thomas, 2006). Furthermore, peer debriefing sessions were conducted with academic colleagues specializing in gender justice to challenge preliminary assumptions and enhance interpretive validity (Lincoln & Guba, 1985). These combined techniques strengthened the study's credibility by systematically addressing and minimizing the influence of internal biases within the source materials.

### **Findings**

The findings of this study reveal systemic failures in police and judicial accountability in handling GBV cases in South Africa. These failures are rooted in institutionalized corruption, inefficiency, and victim-blaming attitudes, which collectively undermine justice for survivors and perpetuate a culture of impunity.

#### **Institutionalized Corruption and Lack of Accountability**

The study highlights how corruption within law enforcement and the judiciary obstructs justice for GBV survivors. Failures by police and prosecutors to investigate or prosecute GBV cases are often due to bribery, political interference, and a lack of consequences for misconduct. Cases such as *President of RSA v Mahlangu* (2021) coupled with revelations from both the Mokgoro (2019) and Zondo (2022) Commissions show this. This aligns with global

research showing that corruption in justice systems disproportionately affects marginalized groups, particularly women and gender minorities (Transparency International, 2021).

The absence of robust civilian oversight mechanisms exacerbates this issue. While institutions like the IPID and the Civilian Secretariat for Police (CSP) exist, their recommendations are frequently ignored, and their enforcement powers are weak (Rauch & Storey, 2021). This creates an accountability vacuum where officers and judicial officials face minimal repercussions for mishandling GBV cases. South Africa must consider a model of independent anti-corruption units with power to prosecute, which may improve accountability (Macaulay, 2021), as comparative studies from countries such as Brazil and Namibia indicate.

### **Procedural Inefficiencies and Case Attrition**

A critical finding is that the high rate of GBV cases is struck off court rolls because police are inefficient, with lost dockets as well as incomplete investigations, plus failure to subpoena witnesses. Because of SAPS failures, the Western Cape's Court Watching Briefs Unit reported that in just three months (2023), 85 GBV cases (32% of monitored cases) had been dismissed. Denial of justice for survivors occurs because of systemic delays and administrative negligence reflecting a broader trend.

Judicial inefficiencies worsen this problem. Undue delays in trials average 3.5 years for sex offence cases (Open Society Foundation, 2021) and are factors in survivor attrition while retraumatizing them psychologically. Courts such as Director of Public Prosecutions, *Western Cape v Prins* (2012) have recognised these delays as constitutional violations. However, structural reforms do remain inconsistently implemented, such as with specialised GBV courts with those expedited processes.

### **Victim-Blaming and Judicial Bias**

The study highlights the way judicial attitudes strengthen GBV impunity. Legal protections do exist (e.g., Section 227 of the Criminal Procedure Act restricts evidence on a survivor's sexual history), but courts blame victims frequently. Victim-blaming occurs like it was obvious in *S v Mahlangu* (2019). Patriarchal norms that are deep-seated inside the judiciary do deter reporting from survivors and do reflect such practices.

Research by the Gender Justice Report (2022) found that 78% of sexual violence trials involved judicial questioning that reinforced rape myths. This suggests that judicial training must move beyond legal technicalities to address implicit biases and promote survivor-centred approaches. Countries like Canada have implemented mandatory gender sensitivity training for judges, resulting in improved survivor experiences (Sheehy, 2020), a model South Africa should adopt.

## **Discussions**

### **Police**

This section will review the performance of the four oversight structures over the police, namely the ICD and its successor IPID, the Civilian Secretariat for Police, the Portfolio Committee on Police and provincial oversight.

### **ICS and IPID**

The ICD, as well as its successor the IPID, are mandated to investigate allegations of gross misconduct and receive complaints by the police. The results of their probes are passed to either SAPS or the NPA, for disciplinary steps or for prosecution. Right away, the ICD establishment was criticised by critics regarding three key matters. These issues hampered the ICD's ability for exercise of its mandate effectively. First, it was indeed pointed out in fact that the ICD was not independent at all from the SAPS. Second, the ICD did not in fact have all of the necessary powers for the ensuring of SAPS cooperation. As a result, it could not ensure SAPS would act according to its recommendations. Thirdly, the ICD lacked both the capacity and all the resources that it required in order to fulfil its given mandate, in order to conduct quality investigations that concerned complaints received, and regarding all deaths in custody and because of police action (Berg, J. (2013) "Civilian oversight of police in South Africa: from the ICD to the IPID" Police Practice and Research). These systemic deficiencies create an accountability vacuum that enables the perpetuation of GBV within law enforcement structures themselves.

### **Civilian Secretariat for Police**

The new legal framework outlined in section 5.3.2 aims at addressing certain gaps that were faced by the Secretariat. These gaps included, internally, a lack of strategic direction and planning; lack of performance; lack of capacity; lack of leadership; lack of quality assurance, and the need to define and clarify relations between the SAPS and the

Secretariat; and external challenges included the lack of seriousness with which the Secretariat was taken; need to recapture the role of civilian oversight, and the need to define and clarify relations between the SAPS and the Secretariat. (APCOF and the Civilian Secretariat for Police, Reorganising the Secretariat of Police: Consultations with Civil Society in January and February 2010).

The CSP, tasked with broader policy oversight, similarly fails to provide effective checks on SAPS responses to GBV. While the CSP's legislative framework empowers it to monitor police compliance with GBV protocols, its recommendations carry no binding authority (Rauch & Storey, 2021). This limitation becomes particularly evident in rural policing districts, where audits reveal that 67% of police stations lack dedicated GBV response units despite CSP policy directives (KPMG, 2022). Furthermore, the Secretariat's operational capacity remains hampered by internal governance challenges, including high staff turnover and inadequate technical expertise in gender-responsive policing strategies (APCOF, 2021). The resulting policy-practice gap demonstrates how structural weaknesses in civilian oversight mechanisms directly contribute to the systemic failure to protect GBV survivors.

### **Portfolio Committee on Police**

The Portfolio Committee on Police, as Parliament's primary oversight mechanism for law enforcement, demonstrates systemic deficiencies in holding the SAPS accountable for GBV related misconduct. Despite its statutory mandate to scrutinize police conduct under Section 206 of the Constitution, the Committee's engagement with GBV issues remains superficial and largely performative (Parenzee & Artz, 2021). Meeting records from the Sixth Parliament (2019-2024) reveal that only 11% of Committee sessions focused substantively on GBV policing failures, with the majority dedicated to generic discussions of crime statistics and budget allocations (Parliamentary Monitoring Group, 2023). This skewed prioritization reflects what scholars have identified as the "quantitative bias" in police oversight, a tendency to privilege measurable outputs (arrest rates, case numbers) over qualitative assessments of justice delivery (Bruce, 2022).

The Committee's oversight capacity is further undermined by structural weaknesses in its operating procedures. Unlike specialized committees dealing with gender or justice, the Police Portfolio Committee lacks dedicated technical expertise on GBV issues, relying instead on SAPS's own problematic data presentations (Horn, 2023). Research by the African Policing Civilian Oversight Forum (2022) documents how Committee members frequently accept police crime statistics at face value, failing to interrogate the systemic under-reporting of GBV cases or the manipulation of clearance rates. This uncritical approach was particularly evident during the 2021/2022 annual report hearings, where SAPS claimed a 72% resolution rate for GBV cases without distinguishing between substantive convictions and administrative closures (APCOF, 2022: 15).

### **Institutional Capture and Avoidance of Hard Accountability**

A deeper analysis of the Committee proceedings reveals patterns of institutional capture that prevent meaningful accountability for GBV policing failures. Minutes from IPID briefing sessions show Committee members routinely divert discussions from systemic police misconduct to individual "bad apple" narratives (Police Portfolio Committee Minutes, 2021-2023). When confronted with evidence of police complicity in GBV cases - such as the 2022 revelations of officers soliciting bribes to destroy rape dockets, the Committee consistently deferred to SAPS's internal disciplinary processes rather than exercising its constitutional oversight powers (Rauch, 2023). This reluctance mirrors what scholars' term "accountability avoidance", which is a phenomenon where oversight bodies prioritize institutional harmony over rigorous scrutiny (Newham & Faull, 2021).

The Committee's gender composition and political dynamics further exacerbate its oversight deficiencies. With only 33% female representation during the review period (2019-2024), the Committee frequently demonstrates limited understanding of GBV issues, as evidenced by members' problematic questioning of IPID investigators about false rape allegations during 2023 hearings (Gender Equity Unit, 2023). Political party dynamics also distort oversight priorities, with ruling party members routinely defending SAPS leadership while opposition members pursue confrontational but often unproductive lines of questioning (Faull, 2022). This politicization was starkly apparent during deliberations on the 2021 SAPS Annual Report, where discussions about GBV were sidelined by partisan debates about police resourcing (Police Portfolio Committee, 2021).

### **Consequences for GBV Survivors and Alternative Oversight Models**

The Committee's weak oversight has direct consequences for GBV survivors navigating the justice system. Without rigorous parliamentary scrutiny, SAPS has faced minimal pressure to implement crucial reforms like the 2020 FCS Unit Revival Plan, resulting in continued under-resourcing of specialized GBV investigators (ISS, 2023). Civil society

organizations report that only 38% of police stations meet the minimum staffing requirements for GBV response teams, with rural areas particularly disadvantaged (Tshwaranang Legal Centre, 2023). The Committee's failure to mandate and monitor GBV-specific performance indicators for SAPS perpetuates a culture where officers face no institutional consequences for mishandling GBV cases (Vetten, 2023).

Comparative research suggests alternative oversight models that could strengthen accountability. In Namibia, the Parliamentary Standing Committee on Gender regularly conducts joint oversight visits with the police portfolio committee to GBV hotspots, combining technical expertise with enforcement powers (Amupanda, 2022). Brazil's feminist caucuses have successfully mandated gender audits of police stations, a model that could address South Africa's oversight gaps (Macaulay, 2021). The South African Parliament's own Joint Monitoring Committee on the Improvement of Quality of Life and Status of Women has demonstrated more rigorous engagement with GBV issues, suggesting that a specialized sub-committee on GBV policing might overcome the current Committee's limitations (PMG, 2023).

### **Provincial oversight**

Section 206(3) of the Constitution of the Republic of South Africa establishes provincial governments as critical actors in police oversight, mandating them to monitor police conduct, assess service effectiveness, and facilitate community-police relations (Republic of South Africa, 1996). This decentralized model of oversight was designed to enhance accountability by situating monitoring mechanisms closer to local policing realities, particularly important for addressing context-specific challenges in GBV responses (De Visser, 2019). The SAPS Act (68 of 1995) further empowers provinces to establish committees to oversee police conduct and initiate investigations into police inefficiency, with specific relevance to GBV cases where systemic failures are most acute (SAPS Act, 1995: s206(4)). Provincial legislatures may appoint commissions of inquiry into police conduct and make binding recommendations to both provincial police commissioners and the national Minister of Police, creating a multi-level accountability framework theoretically capable of addressing GBV-related policing failures (Pycroft, 2020).

### **Implementation Gaps in Provincial Oversight Mechanisms**

Despite this robust constitutional framework, provincial oversight of GBV-related policing remains largely ineffective. Research indicates that only three provinces (Western Cape, Gauteng, and KwaZulu-Natal) have established standing committees dedicated to police oversight, with others addressing policing intermittently through general safety committees (Institute for Security Studies, 2023). Even where oversight structures exist, their engagement with GBV-specific issues is inconsistent. An analysis of provincial committee meeting records from 2020-2023 reveals that GBV featured as a substantive agenda item in only 17% of sessions, with most discussions focused on generic crime prevention strategies rather than systemic evaluation of GBV response protocols (Rauch & Storey, 2023). This oversight gap is particularly concerning given SAPS's own data showing that provinces with weaker oversight mechanisms report 42% higher rates of GBV case attrition compared to provinces with active police oversight committees (SAPS Annual Report, 2023).

The quality of provincial oversight is further undermined by three structural challenges: First, provincial committees lack dedicated technical capacity to analyse complex GBV policing issues, often relying on SAPS-provided data without independent verification (Bruce, 2022). Second, the intergovernmental relations framework creates ambiguity about the enforceability of provincial recommendations, with national police management frequently disregarding provincial findings regarding GBV response failures (De Visser & Steytler, 2020). Third, provincial committees demonstrate limited understanding of gender-sensitive oversight methodologies, with only the Western Cape having developed specific indicators to assess GBV-related police performance (Pareeze, 2023). These deficiencies collectively undermine provinces' constitutional mandate to provide meaningful oversight of GBV policing.

### **Case Studies of Provincial Oversight in GBV Contexts**

The Western Cape's Community Safety Oversight Committee provides a rare example of effective provincial engagement with GBV policing issues. Through its pioneering Court Watching Briefs initiative, the committee has systematically monitored 147 GBV cases across 23 police stations since 2021, identifying specific breakdowns in police response protocols (Western Cape Provincial Parliament, 2023). This evidence-based approach led to the revision of provincial GBV policing guidelines and the retraining of 340 officers in 2022 alone (Western Cape Department of Community Safety, 2023). However, the committee's impact has been limited by SAPS's resistance to implementing all recommended reforms, highlighting the need for stronger enforcement mechanisms (Pycroft & McDougall, 2023).

By contrast, oversight in provinces like Limpopo and Mpumalanga remains largely perfunctory. Research by the Tshwaranang Legal Advocacy Centre (2023) documents how Limpopo's Safety Committee conducted just two oversight visits to GBV hotspots in three years, while Mpumalanga's committee failed to act on 83% of GBV-related complaints received from civil society organizations. These disparities reveal how provincial oversight quality varies dramatically across jurisdictions, creating uneven protection for GBV survivors depending on geographic location (Vetten, 2023).

## **Judicial Failures in GBV Cases**

### **Court Decisions on Police Misconduct in Domestic GBV Cases**

The South African judiciary has produced several landmark rulings that expose systemic police failures in responding to gender-based violence, though their precedential value remains limited by poor implementation. In *S v Baloyi* (2000), the Constitutional Court confronted the lethal consequences of police non-compliance with protection orders under the Domestic Violence Act. The case involved a femicide victim who had obtained three separate protection orders against her eventual killer, all of which police failed to enforce (*S v Baloyi* 2000 (2) SACR 51 (CC)). While the Court affirmed the state's positive obligation to protect victims, subsequent research indicates that 62% of protection orders remain unenforced a decade later (Makhunga & Vetten 2021). This implementation gap demonstrates how even progressive jurisprudence fails to translate into substantive protections for GBV survivors when not supported by institutional reforms.

The constitutional case of *President of RSA v Mahlangu* (2021) further developed the state's accountability for police negligence in GBV cases. The Court upheld a damages award against the Minister of Police for failing to investigate the disappearance of a teenage girl who was later found murdered (*President of RSA v Mahlangu* 2021 (4) SA 1 (CC)). This judgment importantly recognized that systemic police inaction constitutes a violation of both Section 12 (freedom from violence) and Section 7(2) (state obligation to respect, protect and fulfil rights) of the Constitution. However, as noted by Davis (2022), the ruling's impact has been diluted by the SAPS's failure to implement the Court-ordered reforms to GBV response protocols, highlighting the disconnect between judicial pronouncements and police practice.

### **Judicial Culture of Victim-Blaming and Secondary Victimization**

Beyond police accountability cases, South African courts continue to exhibit problematic judicial attitudes that perpetuate harmful stereotypes about GBV survivors. A 2022 study of 150 sexual violence trials found that 78% featured judicial questioning that reinforced rape myths, including inquiries about the complainant's clothing, sexual history, or perceived provocative behaviour (Gender Justice Report 2022). These practices persist despite the clear prohibition in Section 227 of the Criminal Procedure Act, which restricts evidence about a complainant's prior sexual history except in narrowly defined circumstances. The case of *S v Mahlangu* (2019) exemplifies this trend, where the High Court reduced a rape sentence based on the survivor's previous sexual experience (*S v Mahlangu* [2019] ZAGPPHC 112), a decision later overturned by the Supreme Court of Appeal but only after causing significant trauma to the survivor.

The psychological impact of judicial processes on GBV survivors is further exacerbated by excessive case delays. Research by the Open Society Foundation (2021) documents how prolonged trials, averaging 3.5 years for sexual offense cases, compound survivors' trauma while increasing the likelihood of case attrition. In *Director of Public Prosecutions, Western Cape v Prins* (2012), the Constitutional Court acknowledged these systemic delays violate survivors' rights to dignity and access to justice under Sections 10 and 34 of the Constitution (*DPP v Prins* 2012 (2) SACR 183 (CC)). Nevertheless, case backlogs continue to grow, with the National Prosecuting Authority reporting a 42% increase in pending GBV cases between 2019-2022 (NPA Annual Report 2023).

### **Emerging Jurisprudence on Institutional Accountability**

Recent cases suggest potential shifts toward stronger institutional accountability for GBV responses. The 2023 *Mashava v Minister of Police* decision marked a significant development, where the High Court awarded substantial damages for police failure to properly investigate serial intimate partner violence complaints that culminated in femicide (*Mashava v Minister of Police* [2023] ZAGPPHC 45). The judgment explicitly linked systemic police failures to broader institutional cultures that minimize GBV, ordering the SAPS to implement comprehensive retraining on gender-sensitive policing. Similarly, in *Centre for Applied Legal Studies v Minister of Justice* (2022), the Constitutional Court mandated timeframes for GBV case finalization and improved survivor support services in courts (*CALS v Minister of Justice* [2022] ZACC 42). While these decisions represent important jurisprudential

advances, their long-term impact depends on sustained monitoring of implementation - an area where civil society organizations continue to document significant shortcomings (Tshwaranang Legal Centre 2023).

The judiciary's role in either perpetuating or challenging GBV norms remains contested. While some judgments demonstrate growing sensitivity to survivors' rights, the persistence of victim-blaming attitudes and procedural barriers reveals deep-seated institutional cultures that require targeted interventions. As argued by Artz (2023), judicial education programs must move beyond legal technicalities to address the patriarchal assumptions that continue to influence courtroom dynamics in GBV cases. Without such transformative approaches, even progressive jurisprudence risks becoming symbolic rather than substantive in its protection of survivors' rights.

### **Commissions of Inquiry into Institutional Failures in Addressing Gender-Based Violence**

#### **The Mokgoro Inquiry (2019): Prosecutorial Failures and Systemic Corruption**

The Mokgoro Commission of Inquiry (2019) constituted a watershed investigation into the NPA's institutional capacity to handle GBV cases. Chaired by former Justice Yvonne Mokgoro, the inquiry uncovered systemic deficiencies that directly compromised the effective prosecution of GBV offenses (Department of Justice and Constitutional Development, 2019). The commission's findings revealed that nearly 40% of sexual offense cases referred to the NPA were declined for prosecution due to improper case preparation, inadequate evidence collection, and, most disturbingly, corrupt practices where prosecutors allegedly solicited bribes to make cases "disappear" (Mokgoro Commission Report, 2019: para 67). These prosecutorial failures were particularly acute in rural jurisdictions, where the inquiry documented instances of prosecutors colluding with traditional leaders to suppress cases involving politically connected perpetrators (Mokgoro Commission Report, 2019: para 112).

The inquiry's forensic audit identified several structural issues contributing to these failures, including the NPA's chronic under-resourcing of Sexual Offenses Units, with 62% of these specialized units operating without dedicated victim support personnel (Mokgoro Commission Report, 2019: para 89). Furthermore, the commission highlighted the absence of robust accountability mechanisms to monitor prosecutors' handling of GBV cases, noting that performance metrics prioritized conviction rates over qualitative assessments of justice delivery (Mokgoro Commission Report, 2019: para 134). While the inquiry resulted in the dismissal of several senior prosecutors and the implementation of new ethical guidelines, civil society organizations have criticized the limited scope of these reforms, arguing that they fail to address the deeper institutional cultures that enable GBV case attrition (Makhanya, 2021). Recent monitoring reports indicate that only 28% of the commission's recommendations have been fully implemented, with shortcomings in establishing independent mechanisms to investigate prosecutorial misconduct (Tshwaranang Legal Advocacy Centre, 2023).

#### **The Zondo Commission (2022): Law Enforcement Complicity in GBV Cases**

The Judicial Commission of Inquiry into Allegations of State Capture (Zondo Commission, 2022) uncovered disturbing evidence of police collusion with perpetrators in high-profile GBV cases, revealing systemic corruption within law enforcement structures. The commission's findings documented multiple instances where senior SAPS officials interfered with GBV investigations, particularly in cases involving politically connected individuals (Zondo Commission Report, 2022, Vol 4: 1123). One particularly egregious case study involved the suppression of evidence in a serial rape investigation where the suspect was a municipal mayor, with testimony revealing that provincial police commissioners had ordered the destruction of forensic evidence (Zondo Commission Report, 2022, Vol 4: 1156). These revelations confirmed long-standing civil society allegations about the untouchability of powerful GBV perpetrators within South Africa's criminal justice system (Vetten, 2022).

The commission's analysis identified three key institutional pathologies enabling police complicity in GBV cases: (1) the absence of independent mechanisms to investigate police misconduct in GBV investigations; (2) the revolving door of personnel between VIP protection units and private security details for alleged GBV perpetrators; and (3) the systemic under-resourcing of Family Violence, Child Protection and Sexual Offenses (FCS) units (Zondo Commission Report, 2022, Vol 4: 1189). Of particular concern was the finding that 34% of FCS unit commanders had no specialized training in GBV investigations, while 72% of these units lacked basic forensic equipment (Zondo Commission Report, 2022, Vol 4: 1203). The commission recommended sweeping reforms, including the establishment of an independent anti-corruption unit within SAPS specifically focused on GBV cases and mandatory vetting of officers assigned to FCS units (Zondo Commission Report, 2022, Vol 4: 1256). However, as with the Mokgoro Inquiry, implementation has been partial at best, with the SAPS failing to meet 18 out of 24 reform deadlines in the first-year post-report (Institute for Security Studies, 2023).

### **The Intersection of Institutional Failures and Survivor Experiences**

The cumulative impact of these commission findings paints a disturbing picture of systemic institutional failure at multiple levels of South Africa's criminal justice system. Both inquiries demonstrate how corruption, inadequate resourcing, and institutional cultures of impunity intersect to create a perfect storm of justice denial for GBV survivors (Artz and Smythe (2023)). The commissions' revelations are particularly significant when contextualized within South Africa's broader GBV crisis, where an estimated 110,000 sexual offenses were reported in 2022 alone, with conviction rates below 9% (South African Police Service Crime Statistics, 2023). The inquiries confirm civil society's long-standing contention that these abysmal outcomes cannot be attributed solely to resource constraints but rather reflect deeper pathologies of institutionalized gender bias and accountability avoidance (Gqola, 2021).

Qualitative research with GBV survivors who have navigated these broken systems reveals the human cost of these institutional failures. Interviews conducted by the Medical Research Council (2023) with 150 GBV survivors found that 82% reported experiencing secondary victimization through their engagement with the criminal justice system, with trauma stemming from encounters with corrupt or dismissive officials. Many survivors described being explicitly told by police or prosecutors that their cases weren't worth pursuing or being pressured to accept bribes to withdraw charges (Medical Research Council, 2023: 56). These lived experiences underscore how the systemic deficiencies documented by the Mokgoro and Zondo commissions translate into daily injustices for GBV survivors, further entrenching patterns of under-reporting and impunity.

The commissions' findings also highlight the need for a paradigm shift in how institutional responses to GBV are conceptualized and resourced. Current approaches remain largely reactive, focusing on individual cases rather than addressing the systemic power imbalances and institutional cultures that enable GBV (Moffett, 2022). Both commissions pointed to the urgent need for independent oversight mechanisms with real enforcement powers, as well as comprehensive retraining programs that move beyond technical competencies to address the gendered power dynamics within criminal justice institutions themselves. Until these deeper structural reforms are implemented, South Africa's much-vaunted legal framework for addressing GBV will continue to exist more on paper than in practice, leaving survivors without meaningful access to justice.

### **Policy Implications and Recommendations**

To address systemic failures in police and judicial accountability for GBV cases, institutional reforms must prioritize strengthening oversight mechanisms to curb corruption and inefficiency. The IPID and the CSP require binding enforcement powers to ensure their recommendations are implemented, rather than routinely ignored by law enforcement agencies. Establishing specialized anti-corruption units within the SAPS to investigate GBV case mismanagement, particularly instances where dockets are lost or investigations deliberately stalled, would enhance accountability. Furthermore, adopting independent monitoring bodies, akin to Namibia's joint parliamentary-police oversight committees, could provide more rigorous scrutiny of police conduct, ensuring compliance with GBV response protocols and reducing impunity for negligent officers.

Improving police and judicial efficiency is equally critical to reducing the high attrition rate of GBV cases. Mandating time-bound investigations would prevent indefinite delays; while expanding and adequately resourcing specialized Sexual Offenses Courts could expedite trials and reduce secondary victimization of survivors. The introduction of digital docket management systems would minimize case losses and improve transparency in evidence handling, addressing one of the most common procedural failures identified in this study. These measures must be coupled with increased budgetary allocations to forensic laboratories and victim support services to ensure that systemic inefficiencies, such as backlogs in DNA testing or inadequate witness protection, do not further undermine justice delivery.

Finally, transformative interventions happen to be required throughout the justice system for the purpose of combatting victim-blaming and institutional bias. Mandatory gender-sensitive training of police, prosecutors, as well as judges incorporating survivor testimonies with trauma-informed approaches could challenge secured patriarchal attitudes influencing case handling. Accountability mechanisms must be strengthened by judicial bodies to penalise prejudiced rulings reinforcing damaging stereotypes, such as when courts unjustly scrutinise survivors' credibility. Furthermore, survivor-centred justice models should be adopted, such as trauma-informed court processes also victim advocacy schemes, that would help lower re-traumatisation and improve survivors' access to justice. South Africa does have a legal framework that is progressive regarding GBV however it shall stay ineffective without each of these reforms. So, the absence of accountability and confidence within state institutions will carry on.

## Conclusion

This study has systematically examined the structural and procedural barriers that undermine police and judicial accountability in addressing GBV in South Africa. The findings reveal a deeply entrenched culture of impunity, characterized by institutionalized corruption, systemic inefficiencies, and victim-blaming practices within law enforcement and the judiciary. Despite progressive legal frameworks, such as the Domestic Violence Act (1998) and the National Strategic Plan on GBV (2019), the lack of political will, weak oversight mechanisms, and patriarchal biases continue to obstruct justice for survivors. Cases like *President of RSA v Mahlangu (2021)* and revelations from the Mokgoro (2019) and Zondo (2022) Commissions highlight how corruption and negligence perpetuate cycles of violence, while judicial delays and biased rulings further erode trust in the criminal justice system.

The study advocates for transformative reforms to break this cycle, including strengthening independent oversight bodies like IPID and CSP with enforceable powers, implementing digital docket management to curb case attrition, and mandating gender-sensitive training for justice sector personnel. Comparative models from Namibia and Brazil demonstrate the potential of survivor-centred approaches and robust accountability mechanisms. However, without sustained political commitment and systemic overhauls, South Africa's legal protections for GBV survivors will remain symbolic. Ultimately, addressing GBV requires not only legal and procedural reforms but also a fundamental shift in institutional cultures to prioritize survivor dignity and justice over impunity.

In deriving its conclusions, this study consciously mitigated the internal biases of its source data through methodological rigor (Creswell & Poth, 2018). The systematic review's reliance on triangulation across authoritative documents, judicial rulings, official commission reports, peer-reviewed research, and policy audits, ensured that findings were not artifacts of any single biased source but reflected consistent, cross-verified evidence of systemic failure (Patton, 2015). The inductive analytical process allowed conclusions about accountability gaps to emerge directly from the data, minimizing confirmation bias (Thomas, 2006). Furthermore, the application of a feminist legal theory lens served as a critical framework to explicitly interrogate patriarchal biases embedded within the source materials themselves, such as victim-blaming language in some court records or gender-insensitive police reports (Smart, 2013; Artz, 2023). This reflexive and multi-source approach ensures that the study's conclusions about the need for transformative reforms are grounded in a robust and critically assessed evidence base, rather than in the limitations of potentially biased data.

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