

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

Case No: 20427/22

In the matter between:

CAROLINE PETERS

Applicant

And

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

First Respondent

[REDACTED] G [REDACTED]

Second Respondent



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IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

Case No: 20427/22

In the matter between:

CAROLINE PETERS



Applicant

And

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES First Respondent

[REDACTED] G [REDACTED]

Second Respondent

NOTICE OF MOTION

TAKE NOTICE that the above-named applicants intend to make application to this Court, on a date to be determined by the Registrar, for the following orders:

1. Declaring that s 154(2)(b) read with ss 153(3)(a) and (b) and 154(5) of the Criminal Procedure Act 51 of 1977 (CPA) is unconstitutional and invalid to the extent that it criminalises the publication of any details of a person charged with committing a sexual offence before such person has pleaded to the charge.
2. Declaring that s 154(2)(b) be amended by changing the reference therein to s 153(3) to refer to s 153(3)(c).

3. Declaring that the following words be severed from s 335A(1) of the CPA "*until the prohibition in terms of s 154(2)(b) of the publication of information relating to the charge in question commences*".
4. Ordering the First Respondent to pay the Applicant's costs in this application.
5. Such further and/or alternative relief as this Court may deem just and equitable.

TAKE NOTICE FURTHER that the accompanying affidavit of **CAROLINE PETERS** shall be used in support of this application.

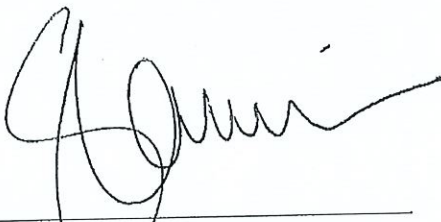
TAKE NOTICE FURTHER that the Applicant has appointed the address of her attorneys, as set out below, as the address at which she will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing this application, you are required to:

- a) Notify the Applicant's attorney in writing within 15 days of service upon you of this application;
- b) Appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents and process in this matter; and

- c) Within 15 days after having so given notice of your intention to oppose the application, file an answering affidavit, if any.

DATED AND SIGNED AT CAPE TOWN ON THIS 27 DAY OF NOVEMBER 2022.



WOMEN'S LEGAL CENTRE

Applicants Attorneys

2nd Floor, 5 St Georges Mall

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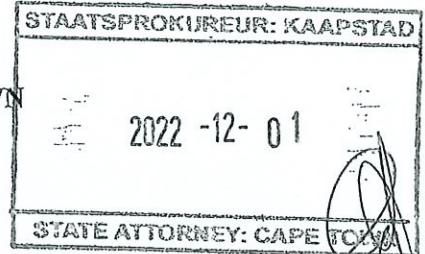
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(REF: B Pithey)

TO: THE REGISTRAR
HIGH COURT, CAPE TOWN

AND TO: THE FIRST RESPONDENT
C/O THE STATE ATTORNEY, CAPE TOWN
22 Long Street
CAPE TOWN



AND TO: THE SECOND RESPONDENT

[REDACTED]
[REDACTED]
[REDACTED]

Khayelitsha
CAPE TOWN

**IN THE HIGH COURT OF SOUTH AFRICA
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Applicant

And

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES First Respondent

██████████ G ██████████

Second Respondent

AFFIDAVIT

I, the undersigned,

CAROLINE PETERS

do hereby make oath and say:

1. I am an adult female and I reside within the jurisdiction of the above Honourable Court.



2. The facts contained in this affidavit are within my personal knowledge, save where the context indicates otherwise, and are true and correct to the best of my knowledge and belief.
3. Where I make legal submissions, I do so on the advice of my legal representatives, which advice I accept as correct.

INTRODUCTION

4. This is an application to declare s 154(2)(b) of the Criminal Procedure Act 51 of 1977 ("the CPA"), as read with s 153(3)(a) and (b) and s 154(5), is inconsistent with the Constitution of the Republic of South Africa, 1996 ("*the Constitution*") and invalid in that the section:
 - 4.1. Criminalises the publication of the identity of an accused before the accused has pleaded to the charges ;
 - 4.2. Unjustifiably violates s 16(1)(a) and/or (b) of the Constitution; and
 - 4.3. Constitutes indirect discrimination against women (who are primarily the victims of sexual violence) and, thus, violates s 9(1), (2) and (3) of the Constitution. As the discrimination is based on listed grounds – i.e. on the grounds of sex and gender – it is automatically unfair in terms of s 9(5) unless the State establishes that the discrimination is fair.
5. In support of the above, this affidavit deals with:
 - 5.1. The parties;



5.2. The background facts, including:

5.2.1. My work experience as an activist against sexual violence against women;

5.2.2. The charges laid against me under s 154(2)(b) of the CPA;

5.3. The Government's The 'Breaking the Silence' campaign;

5.4. The unconstitutionality of s 154(2)(b) of the CPA;

5.5. The State's international law obligations not to unjustifiably limit the right to freedom of expression;

5.6. A comparative analysis of various foreign law relating to the disclosure of an accused's charge with a sexual offence;

5.7. Examples of breaches of s 154(2)(b) in mainstream media; and

5.8. The public benefit of naming a perpetrator accused of sexual offence cases.

THE PARTIES

6. I am the Applicant. I am an adult female and I am a feminist and an activist dedicated to assisting women who are victims of sexual violence.

7. As I explain more fully below, I have reason to believe that a criminal complaint has been made against me for contravening s 154(2)(b) of the CPA.

8. I therefore have a direct and personal interest in the lawfulness and constitutionality of the section. Furthermore, because the impugned provision




unfairly and indirectly discriminates against women, I bring this application in the public interest.

9. The First Respondent is the Minister of Justice and Correctional Services. The Respondent is the "Minister" referred to in s 1 of the CPA. He is served care of the State Attorney at 22 Long Street, Cape Town.
10. The Second Respondent is [REDACTED] G [REDACTED] (Mr G), an adult male employed by the South African Navy. As set out more fully below, Mr G claims he has made a criminal complaint against me to the South African Police Service in terms of s 154(2)(b) of the CPA. Mr G resides at [REDACTED] [REDACTED] Khayelitsha, Cape Town.

10.1. On or about 25 August 2021, Mr G was charged with one or more offences referred to in s 153(3)(a) and/or (b) of the CPA;

10.2. More than a year later, Mr G has not yet pleaded to those charges;

10.3. In terms of s 154(2)(b), publication of any details relating to those charges is, therefore, prohibited (the very provision impugned in these proceedings).

11. In the circumstances, because pleadings and affidavits filed in civil proceedings are public documents, the following information will be redacted from the copy of the papers filed at Court:

11.1. Information relating to Mr G's identity; and

11.2. Information relating to the identity of the complainant who initiated the criminal proceedings against Mr G.

12. Of course, the redaction of those details in the context of this case is ironic. But this is one the absurd consequence of the impugned provisions. The original, unredacted papers will be made available to the court prior to the hearing of the matter.

FACTUAL BACKGROUND

13. In July 1980, at the age of 15 years, I was gang raped at Nantes Park, a local park in Bridgetown, Cape Town, the neighbourhood in which I grew up. My best friend was murdered in the same attack.

14. More than three decades later, this memory remains vivid in my mind and has shaped the work I do to serve and protect the rights of women who have become victims of sexual violence.

15. My own experience of being a victim of sexual violence has inspired and motivated me over the years, in particular since I became an adult, to work tirelessly in the sectors of violence against women (VAW) and gender based violence (GBV).

16. I have a deep and profound understanding of sexual violence and the devastating effects it has on women, families, and communities. This understanding is based, not only on my own experience, but also the many women I have met along my journey of activism – women who have fallen victim to both sexual and domestic



violence. I have sought to provide support to these women for the last 35 years of my life and I will continue to do so for as long as I am able to.

17. My support to women victims of sexual and domestic violence includes:
 - 17.1. providing psycho-social counselling support to victims and their families,
and
 - 17.2. providing guidance, assistance and support to women who choose to turn to the criminal justice system and seek justice by reporting the abuse perpetrated against them.
18. It is an essential element of my support work that, for those women who turn to the criminal justice system, I accompany them to court when they attend court appearances of the accused, as well as when they testify at trial.
19. Through the years, I have established excellent working relationships with a number of criminal justice personnel, including police officers and public prosecutors. My support and assistance have become so widely known that police and prosecutors from across the Western Cape often refer victims to me, and to the organisations with whom I work, in order to provide assistance and support to those victims.
20. In the many years I have been doing this work, I estimate I have assisted in the region of 800 women, either as individuals or in support groups.




Work Experience

21. My direct interest in providing psycho-social support for women began in the 1990's where I served as a volunteer counsellor with Lifeline, providing telephonic support to people in distress.
22. I formally entered the Violence Against Women (VAW) and Gender Based Violence (GBV) sector in 1999 and worked for the Western Cape Network on Violence Against Women (the "Network") from 2001 to 2007 as the Training Programme Manager. The Network at that time was based at the Saartjie Baartman Centre for Women and Children in Manenberg, Cape Town.
23. The Network comprised of approximately 500 organisations in the Western Cape which provided a wide range of services for women who are victims of abuse and related issues. These services included counselling, advice, referrals, advocacy, skills development, training, and legal advice and support. The Network encompassed both urban and rural organisations, as well as non-governmental organisations, community-based organisations, faith-based organisations, government departments (including the departments of Justice and Constitutional Development (as it was then known), Social Development, Education, and Community Service).
24. There were seven regional Networks: Cape Town, Khayelitsha, Southern Cape, Klein Karoo, Central Karoo, Northern Suburbs and Helderberg/Winlands, as well as developing networks in the Overberg, West Coast/Atlantis, Boland, and Mitchell's Plain areas.



25. The Provincial Network office for which I worked provided support by holding monthly General Meetings for all members in each region; conducting advocacy and campaigning as a collective of organisations; convening Focus Groups around areas of common interest; and making representations on the issue of Violence Against Women to such committees as the Provincial Victim Empowerment (VEP) Forum, Gender Partnership, Treatment of Survivors Task Group, Sexual Harassment Task Group. The Network also partnered with the Saartjie Baartman Centre for Women and Children on various projects, as well as the Mabuphele campaign and the Intersect Campaign.
26. I was actively involved at that time with the implementation of the relatively new Domestic Violence Act 116 of 1998 (the "DVA") which was passed into law in 1998. In this regard, my work focussed on skills training for criminal justice personnel - including to members of the South African Police Service and the Magistracy - on, *inter alia*, sensitivity training to guide them on how to approach and treat the needs of abused women, both from a legal procedural and a psycho-social perspective.
27. From 2007 to 2013 I worked for the IBN Sina Institute of Tibb (health centre) which was based in the clinic at the Saartjie Baartman Centre for Women and Children. As the Provincial Coordinator I was responsible for the overall strategic management of the organization and ensuring the smooth running of three clinics.
28. The Saartjie Baartman Centre for Women and Children is a one-stop centre for women and children who are survivors of abuse. Its vision is the creation of a safe



and secure society and a human rights culture where women and children are empowered to exercise the full spectrum of their rights.

29. The services provided by the Saartjie Baartman Centre include a 24-hour emergency shelter (safe accommodation); short and medium term residential care; childcare services; counselling; mental health support and economic empowerment services; children's counselling; research in gender based violence; job skills training; and legal advice.
30. During this period,

30.1. I also served on the boards of the following community based organisations:

30.1.1. Ilitha Labantu, a social service and educational organisation that focuses on addressing violence against women and children and supporting those affected by it.

30.1.2. ANEX (Activists Networking against the Exploitation of Children), a children's rights non-profit organisation based at the Saartjie Baartman Centre, and

30.1.3. Manenberg Selfhelp, and NGO dedicated to serving the Manenberg community;

30.2. over weekends and after hours, I worked with an organisation called REACH (Rural Education, Awareness & Community Health).



31. From 2013 to 2015 I served as the director for ANEX. The aim of ANEX was to combat all forms of exploitation of children (including child trafficking, child labour, commercial sexual exploitation of children, children used by adults to commit crime) through prevention and early intervention programs. In addition to its head office at Saartjie Baartman Centre, the organisation also had two satellite centres in Beaufort West and Murraysburg.
32. In 2015 I moved to work as Programme Director for the 1000 Women Trust organisation. Since 2003, the 1000 Women Trust initiative has been creating awareness, organising safe spaces for women and mobilising resources to amplify the voices of women and girls in South Africa. The objectives of the 1000 Women Trust are to mobilise resources and provide grants to organisations that support, raise awareness and provide opportunities for women and children who have been affected by violence.
33. The organisation stands in solidarity with women, amplifies the voices of activists and advocates for action to end GBV and femicide.
34. At the 1000 Women Trust I was primarily responsible for training programmes, working with women in communities to improve awareness of rights, specifically in relation to the criminal justice system.
35. During 2016 to 2017, my work focus was primarily with the 1000 Women Trust and with Ilitha Labantu where I served, and continue to serve to this day, a mentoring and management role.



36. The services provided by Ilitha Labantu include a clinical programme providing counselling and psycho-social services to victims, policy and advocacy (which encompasses para-legal support services, court support and lobbying), outreach and education, employment readiness, a transitional house/shelter for abused women and children, and a comprehensive food security programme.
37. In 2018 I registered the Callas Foundation as a non-profit organisation (NPO) and a Public Benefit Organisation (PBO) to effectively formalise the community work my colleagues and I were performing in our community.
38. The core focus of the Callas Foundation is to challenge the high levels of VAW and GBV in our communities. We do this through awareness raising, providing psycho-social support for victims and family members, skills training, educating people on their human and constitutional rights in order to assist communities to protect themselves and demand adequate services from the state.
39. One of the most important services we provide for victims of VAW and GBV is court support, especially for victims of sexual violence. This entails assisting women who have chosen to report sexual violence to the police for investigation. We educate these women on their rights and often act as liaison between the victim and the investigating officer regarding:
- 39.1. the developments and updates on the investigation, including the potential referral of the matter to the National Prosecuting Authority for prosecution,
 - 39.2. the enrolment of cases,



39.3. bail applications and bail conditions placed on the accused.

40. We also accompany women complainants to court when they testify, and raise awareness through public and social media regarding ongoing sexual violence cases before the courts.
41. The Callas Foundation also offers the following programmes: a feeding scheme; after school care for children between the ages of 8 to 13; Anti-Bullying Programme/Campaign. Additionally, as part of the #HearMeToo movement, the foundation offers a safe space for women to tell their stories to start the healing process from violence.
42. As I mentioned above, we receive a number of referrals from the South African Police Services and the NPA prosecutors for women in need of assistance and support.
43. Most women who are victims of sexual violence are unaware of the criminal justice system processes, what their rights are, what information they are entitled to, and what is generally expected of them as they attempt to negotiate the system. Many find the system alienating and not victim friendly. We aim to reduce this secondary victimisation by providing support and assistance, very often in the form of attending at court with victims, as well as holding lawful protests outside the court buildings when an accused appears, with the objective of raising awareness of the numerous cases of sexual violence perpetrated against women in South Africa.



44. Our experience has shown that many women who do not receive support of this nature become despondent by long, drawn out cases, and the numerous delays in sexual violence trials. We have found that by empowering women with information and explaining issues such as bail applications, bail conditions and criminal trial procedures, this assists women in preparing adequately for trial and reduces the chance that they will withdraw from their cases.
45. The Callas Foundation has also partnered with Ilitha Labantu and other organisations across the country to create the 'Bail Conditions Campaign' to raise awareness on bail conditions in sexual violence cases and ensuring that the rights of victims are properly recognised, realised and protected by the courts.

The Charges Against Me

46. On 25 August 2021 I became aware that rape charges were initiated against one Mr G. I became aware of the charges after being contacted by a colleague from the South African Human Rights Commission who was supporting Ms MN, the victim/complainant in the matter.
47. I was requested to assist with legal and court support for Ms MN.
48. The case was enrolled in the Wynberg Magistrate's Court under case number 4/636/2021. It is currently on the District Court roll for further investigation.
49. I first met and consulted with Ms MN on 3 September 2021. At this stage, the accused, Mr G, had already applied for and been granted bail by the Wynberg Court. Ms MN had attended court on the day of the bail application which had left



- her feeling upset and unsupported as, according to her, she attended court alone, while a number of colleagues of the accused had been present in court to support him and had intimidated her. .
50. Following our consultation on 3 September 2021, we, as the Callas Foundation, decided to support Ms MN by providing her with information about the criminal justice process, as well as attending court with her. Fellow activists and colleagues would hold lawful placard protests outside of court on the days that the accused, Mr G, appeared in court.
51. Ms MN indicated that although she understood that she was not expected to attend court until she received a subpoena to testify as the complainant in the matter, she chose to attend court whenever the accused appeared, as is her right.
52. On 13 October 2021 the accused appeared at Wynberg Court. I, together with Ms MN and a number of other community women affiliated to the Callas Foundation, also attended court. We wore T-shirts with the slogan "Justice for Maggie" and had placards and posters with similar messages. Most of the women protestors remained outside the court building, while I accompanied Ms MN inside the Wynberg Court to the District Court room where the accused, Mr G, was appearing.
53. As per Covid19 regulations, we waited outside the court room in the passage prior to the accused's case being called and for him to enter into the court room and the dock. While waiting outside the court room, I took a photograph of the court roll (**Annexure CP 1**) which was pasted on the passage wall outside of the court room



- with my cell phone. The court roll included the details of the accused Mr G's name and the offence with which he is charged, that of rape. The court roll was pasted on the passage wall outside the open court room and was clearly visible to the public.
54. When Mr G's case was called by the court orderly, I took a photograph of his back with my cell phone as he walked into the court room (**Annexure CP 2**).
55. I posted both the photographs I had taken that day on my Facebook page: the photo of the court roll and the photo of the accused's back as he walked into the court room.
56. I have approximately 5000 'Friends' on Facebook. In addition to these two photographs, I also posted photographs of the women protesting outside court. All posts were tagged as #justiceformaggie.
57. The accused, Mr G, appeared before the Wynberg Court again on 5 November 2021. Once again, we attended court to support Ms MN. We wore the same T-shirts and had placards with "Justice for Maggie".
58. As I had previously done, I accompanied Ms MN into the court building to the district court room where Mr G was appearing. Once again, I took a photograph of the court roll which was publicly posted outside of the court room on the passage wall and reflected the details of the accused (his full name and the charge of rape). I took a photo of his back again as he entered the court room when his case was called by the court orderly.

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59. I entered the court room together with Ms MN, my cell phone clearly visible in my hand. The court orderly noticed that I had my cell phone and that I had taken a photograph of the accused, Mr G.
60. The court orderly removed my cell phone from me, telling me that he was going to delete the photographs I had taken. I did not object to him doing so. I realised later when I checked my phone, that he had not deleted the photographs I had taken of the court roll and of the accused.
61. The magistrate, Mr Bawa, observed this interaction between me and the court orderly and addressed me directly, pointing to a sign visible in the court room which indicated that cell phones were not allowed in the court room, saying something along the lines of *"You see that sign? We will be seeing more of each other in the future, so you must obey the rules of this court, and not use your cell phone in court"*.
62. The magistrate did not at any stage inform me that I may not take photographs of the court roll or the accused outside of the court room; nor that I may not publish any details about the accused before he had pleaded to the rape charges against him.
63. The magistrate only warned me not to use my phone in court.
64. As I did after the previous appearance, I posted to Facebook the photograph of the court roll with the accused' details, the photo of his back when entering the court and the photographs of the protesting women outside of court.

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Interim Protection Order

65. On 15 November 2021 I was served with an Interim Protection Order (IPO) in terms of s 3(2) of the Protection from Harassment Act 17 of 2011 (the PHA) (**Annexure CP 3**) which was issued by the Khayelitsha Magistrate's Court under case number 201/21 on 11 November 2021.
66. The complainant in the IPO application was Mr G, the accused in the rape matter at Wynberg Magistrate's Court under case number 4/636/2021.
67. In his application for the protection order in terms of s 2(1) of the PHA, Mr G alleged that on 5 November 2021 he had appeared in the Wynberg Magistrate's Court in a matter related to a sexual offence, and that he had not at that stage pleaded to the charges.
68. He further stated in his application that he came across my Facebook profile and saw the photographs I had taken of him and the court roll on the days that he had appeared in court. He complained that the photographs I had taken on 13 October 2021 and 5 November 2021 were posted on my Facebook page and that they had been shared a number of times.
69. He stated that he had laid criminal charges against me under CAS number 39/11/2021 and the case has been transferred to the Lingeletu West police station for investigation. He stated that he believes I am in contravention of s 154(2)(b) of the Criminal Procedure Act 51 of 1977.



70. I attended at Khayelitsha court on 13 December 2021 on the 'return date' of the IPO to show cause why the court should not issue a final protection order.
71. I was legally represented by the Women's Legal Centre.
72. When the matter was called, the complainant Mr G was not present at court and the Magistrate struck the matter from the roll.
73. To date, despite the allegation by Mr G that he has laid criminal charges against me, I have not been contacted or arrested by the South African Police Services in relation to these criminal charges.
74. However, the fact that such charges have been laid against me, hangs like the proverbial sword of Damocles over my head.
75. Moreover, and for the reasons which follow below, even if no criminal proceedings follow upon the charges laid against me, the very existence of the offence created by s 154(2)(b) is unconstitutional, unjustifiable and invalid.

S 154(2)(B) OF THE CPA

76. S 154(2)(b) of the CPA provides the following:

No person shall at any stage before the appearance of an accused in a court upon any charge referred to in s 153(3) or at any stage after such appearance but before the accused has pleaded to the charge, publish in any manner whatever any information relating to the charge in question.

77. S 153(3), in turn, provides the following:



(3) *In criminal proceedings relating to a charge that the accused committed or attempted to commit-*

(a) any sexual offence as contemplated in s 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, towards or in connection with any other person;

(b) any act for the purpose of furthering the commission of a sexual offence as contemplated in s 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, towards or in connection with any other person; or

(c) extortion or any statutory offence of demanding from any other person some advantage which was not due and, by inspiring fear in the mind of such other person, compelling him to render such advantage,

the court before which such proceedings are pending may, at the request of such other person or, if he is a minor, at the request of his parent or guardian, direct that any person whose presence is not necessary at the proceedings or any person or class of persons mentioned in the request, shall not be present at the proceedings: Provided that judgment shall be delivered and sentence shall be passed in open court if the court is of the opinion that the identity of the other person concerned would not be revealed thereby.

78. At first glance, the relationship between s 153(3) and 154(2)(b) is a curious one. The former is, self-evidently, aimed at protecting the victims and complainants in respect of the offences referred to therein. Protection of this sort makes eminent

- sense and, although not at issue in this matter, appears to me to be justifiable and constitutional.
79. On the other hand, s 154(2)(b) appears to be aimed at protecting the identity of an accused, at the expense of the rights and freedoms of the victims and complainants in respect of the offences. This protection is not extended to persons accused of, for example, murder, attempted murder, culpable homicide, robbery, assault, fraud etc. Likewise, the victims and complainants in respect of such crimes are not at risk of criminal prosecution if they expose the identities of the persons they accuse before such accused has pleaded.
80. In the circumstances, I believe s 154(2)(b) of the CPA is unconstitutional in that it unjustifiably infringes a number of my constitutional rights, especially my right to freedom of expression, and serves to silence victims, communities and those who support victims of sexual violence.
81. Moreover, it constitutes unfair discrimination because the vast majority of victims of crimes referred to in s 153(3)(a) and (b), who would wish to name their assailants, are women.
82. Moreover, this 'silencing', which is codified in s 154(2)(b) the CPA, is in direct conflict with the government's policy of encouraging and promoting victims and communities to speak out publicly about all forms of violence against women. I discuss this policy in more detail below.



BREAKING THE SILENCE

83. The messaging of '*breaking the silence*', '*speaking out against abuse*', '*don't look away*', '*report violence against women and gender based violence*' has been a hallmark of the South African Government's response to violence against women (VAW) and gender based violence (GBV) for a number of years now.
84. This messaging is in keeping with international trends and demonstrates the recognition that much of the violence experienced by women is often in secret or behind closed doors.
85. The message is aimed at addressing and dismantling the stigma traditionally attached to this type of violence - viz shaming women into not speaking about or reporting the abuse perpetrated against them. Maintaining the stigma and protecting persons accused of VAW and GBV only allows for a culture of impunity for perpetrators.
86. Creating a special form of protection to persons accused of sexual offences only reinforces the stigma. It tells women: *the state will treat your allegations of sexual violence with suspicion and keep you silent unless and until a prosecutor has concluded that sufficient evidence exists to proceed with a prosecution (trial) against the accused – independent of your word – that you are telling the truth.*
87. Women are encouraged to 'speak out', but once they have done so by reporting the matter to the police, they and their supporters are effectively 're-silenced',



under threat of criminal sanction if they continue to break the silence by publishing details of the accused or any information relating to the sexual offences charge.

88. I have included examples of the South African government's campaigns over the last few years which clearly encourages and supports victims to speak out publicly about violence against women and children, and to report these crimes to the police. The common theme amongst these campaigns is:

88.1. To urge people not to look away from abuse, but rather to speak out against it, and

88.2. To encouraging silent victims to talk about abuse, and to report it to the police.

89. As far back as 2013, the theme of the 16 Days of Activism for No Violence Against Women and Children was 'Don't Look Away, Act Against Abuse' (**Annexure CP 4**).

90. In 2014, the Minister of Communications Ms Faith Muthambi, released a statement during Women's Month, detailing the desperate need for all members of society to not turn a blind eye to abuse in communities and to keep quiet. She highlighted that Legislative and Judicial interventions were not enough to stop the scourge of abuse and violence committed against women in this country. She stated in terms:

"The perpetrators and those who are complicit in allowing these vile acts to occur have no place in society, and communities must act to isolate and expose them."



We can no longer simply turn a blind eye and believe it is not our place to interfere.”

91. This statement, which I attach as **Annexure CP 5**, was published as an official statement on the South African Government website. The message is clear and commendable. But it is undermined by the threat of s 154(2)(b) of the CPA.
92. Later that year, the government theme for 16 Days of Activism for No Violence Against Women and Children was *‘Count me in: Together moving a non-violent South Africa forward’*. As part of this theme, the objectives included attracting all South Africans to be active participants in the fight to eradicate violence against women and children, and to speak out against women and child abuse (**Annexure CP 6**).
93. Part of the above 2014 campaign was a pamphlet distributed by government, once again, emphasising the need for victims to report and to get assistance. (**Annexure CP 7**)
94. The 2017 16 Days of Activism for No Violence Against Women and Children theme was *‘Break the cycle, speak out against abuse’* once again encouraging victims and communities to *‘break the cycle of violence’*, *‘break the silence’*, *‘act against abuse’* and *‘don’t look away’* (**Annexure CP 8**).
95. During that campaign, the government released further media statements encouraging South Africans to speak out about abuse and report criminal cases to the police. The then Communications Minister Mmamoloko Kubayi-Ngubane



said “...it is everyone’s responsibility to report incidents of abuse to the police”. She went on to say that “...perpetrators should not be protected but reported so that the law can take its course and justice can be served” (Annexure CP 9)



96. In a 2018 address at the Presidential Summit on Gender Based Violence and Femicide, President Cyril Ramaphosa recognised the unacceptable levels of violence against women in South Africa, clearly stating “We must name and shame those who perpetrate violence against girls and women”. (Annexure CP 10).
97. On 23 August 2019 the South African Government official Twitter account tweeted “Gender-based violence has no place in society. Let’s create an open environment where victims never have to fear speaking out” (Annexure CP 11)
98. On 2 September 2019 the same South African Government official Twitter account tweeted “Society must break the silence, for the sake of our daughters, mothers, nieces – for every woman and girl in our communities and society at large” (Annexure CP 12).
99. On 9 September 2019 the government Twitter account tweeted “The scourge of #GBV is a societal issue, all sectors have a role to play in ending gender based violence. We encourage all religious and community leaders to speak out against GBV and work on building communities that unite against GBV” (Annexure CP 13).



100. On 27 September 2019, the government released an official statement, reporting on a march attended by public servants calling for an end to gender based violence titled "*Break the Silence, stop the Violence*", which once again encouraged public servants to deal with violence in their communities (**Annexure CP 14**).
101. On 10 December 2019 the government Twitter account tweeted "*Break the silence! Report child abuse. Abuse can come in many forms, make sure you're aware of what to look out for*" (**Annexure CP 15**).
102. On 22 June 2022, the same government Twitter account tweeted "*Silence about gender based violence is one of the greatest contributing and enabling factors to this crime. All too often, we know our comrade, our friend, or our relative is a perpetrator, but we keep silent*" (**Annexure CP 16**).
103. The theme for the Western Cape Government's 2020 16 Days of Activism for No Violence Against Women and Children was "*Let's make our communities safer by reporting violence and abuse*". The need for holding perpetrators accountable was emphasised and victims were encouraged to '*use their voice*' and to speak out against and report abuse. (**Annexure CP 17**).
104. In 2021 the government's theme for 16 Days of Activism for No Violence Against Women and Children was '*The Year of Charlotte Manny Maxeke – 16 Days of Activism – moving from awareness to accountability*'. Once again, the prevailing message from government was to encourage people to be activists at home, in communities and at work against GBV, and to be active in rejecting and reporting abusers, and not to protect them (**Annexure CP 18**). People were also encouraged



- to sign the Pledge Against Gender-Based Violence (**Annexure CP 19**) which includes a commitment to “...*not allowing any form of violence to take place without doing something about it.*”
105. In November 2021, the Department of Education launched a television series called “*Breaking the Silence*” focussing on many social issues, including gender based violence (**Annexure CP 20**).
106. On 2 February 2022 the government Twitter account tweeted “*Report gender based violence!*” (**Annexure CP 21**) and on 7 May 2022 tweeted “...*Stand up against gender-based violence. Report all cases of rape, sexual assault or any form of violence to a local police station or call the toll-free Crime Stop number...*” (**Annexure CP 22**).
107. Opposition political parties have also supported the call from government to break the silence on violence against women and gender based violence. In August 2022, the GOOD party launched its ‘*breaking the silence*’ campaign against GBV (**Annexure CP 23**). The messaging was similar to that of government, with GOOD leader calling on victims of abuse and those who know of someone being abused not to “*shut up, but speak up*”.
108. In April of 2022, at a webinar led by the National Strategic Plan on Gender Based Violence and Femicide, representatives from the Department of Justice and Correctional Services encouraged South Africans to collaborate against gender based violence and femicide, to take accountability and be agents of change (**Annexure CP 24**).



109. In August 2022 the National Prosecuting Authority ran a campaign encouraging people to break the silence in Mamelodi, inviting victims of violence to speak out and report it. The NPA also appealed to families or the public who are aware of abuse taking place to speak out and break the silence (**Annexure CP 25**).
110. Viewed against the clear message from the government to “*Break the silence*”, s 154(2)(b), read with s 153(3)(a) and (b), is clearly a relic of a time when women were silenced and misogynistic men’s reputations were protected. It has no place in a modern democratic society and must be removed from the statute.
111. Furthermore, the encouragement from the government for victims and community members to speak out endorses and entrenches the rights to freedom of expression when it comes to exposing perpetrators of VAW and GBV. Thus, the effect of s 154(2)(b), to the extent that it seeks to place a moratorium on the rights of women and community members from speaking out about sexual abusers, clearly violates s 16 of the Constitution.
112. Moreover, it is predominantly women who take on the responsibility (and risks) of exposing sexual abusers – not only victims but also supporters and activists such as myself. Thus, to the extent that the section prohibits the disclosure of the accused’s identity before he has pleaded, it is predominantly women who act in contravention of s 154(2)(b) if they disclose their assailant’s identity before he has pleaded. Whatever the rationale is for including offences referred to in s 153(3)(c) within the scope of s 154(2)(b), the inclusion of offences referred to in s 153(3)(a)



and (b) indirectly and unfairly discriminates against female victims of sexual assault on the basis sex and gender.

Unjustifiable Limitation

113. I have been advised that s 154(2)(b) is a “*law of general application*” that can limit rights under s 36(1) of the Constitution. I have also been advised that it is for the Minister to justify the rights limitations in terms of s 36(1). If he does, I shall address whatever justifications the Minister may offer in reply. However, I emphasise the following factors that demonstrate that the limitations could never be justifiable.

114. First, the section serves no legitimate purpose:

114.1. Apart from the offences referred to in s 153(3) of the CPA, the same protection is not extended to persons accused of other crimes;

114.2. While there would be a legitimate purpose in protecting the identity of victims of sexual offences in appropriate circumstances, there seems little point in providing that protection before but not after an accused has pleaded.

115. Second, the right to speak out against sexual violence is an integral part of the healing process for victims of such crimes. The impact of silencing them is severe. I have explained throughout this affidavit the importance of the freedom to speak out about sexual violence.



116. Third, to the extent that s 154(2)(b) seeks to protect the victims of offences referred to in s 153(3), there are less restrictive means to achieve that purpose. For example, the section can be amended to prohibit the publication of information which will identify the person(s) in favour of whom a direction has been made in terms of s 153(3). Alternatively, s 335A(1) of the CPA can be amended by deleting the words “*until the prohibition in terms of s 154(2)(b) of the publication of information relating to the charge in question commences*”.

117. For these reasons, s 154(2)(b) is unconstitutional.

118. Although, as I have sought to illustrate, the constitutional invalidity of s 154(2)(b) can be identified with reference to Constitution itself, it will be useful to consider South Africa’s international law obligations in this regard too.

INTERNATIONAL AND REGIONAL HUMAN RIGHTS FRAMEWORK

119. S 39 of the Constitution requires that, when interpreting the Bill of Rights, a court, forum, or tribunal must consider international law and may consider foreign law.

120. The right to freedom of expression has been enunciated in the International Covenant on Civil and Political Rights and further detailed by the Human Rights Committee.

121. Article 19 of the ICCPR¹ expressly provides that everyone shall have the right to freedom of expression, including the freedom to seek, receive and impart

¹ UN General Assembly, International Covenant on Civil and Political Rights, consulted online (<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>)



information and ideas of all kinds either orally, in writing or in print, in the form of art or through any other media of his choice. While the Convention does permit restrictions on the right to freedom of expression, restrictions may ONLY exist if provided by law and are necessary for the respect of the rights or reputations of others or for the protection of national security, public order, public health or morals.

122. The Human Rights Committee described the importance of freedom of expression in its General Comment No 34 thus.

“3. Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.”²

123. Dealing with article 47 of the ICCPR, General Comment No. 34 provides that state parties’ national “defamation laws”, including penal defamation laws, which may be described as “*laws restricting freedom of expression*”, must not serve, in practice, to stifle freedom of expression. General Comment No. 34 also notes that these laws should recognise defences such as the defence of truth and that the statements expressed are in the public interest.

124. Closer to home, Article 9 of African Charter provides for the right of every individual to express and disseminate his opinions within the law.³ The expression

² UN Human Rights Committee, General comment No. 34, July 2011, consulted online (<https://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>)

³ African Charter on Human and People's Rights, consulted online (<https://www.achpr.org/legalinstruments/detail?id=49>)



“within the law” has been defined by the African Commission (*Malawi African Association v. Mauritania*⁴) and the African Court (*Konaté v. Burkina Faso*⁵) as referring to international norms on human rights rather than domestic law.

125. Moreover, the African Commission has adopted a Declaration of principles on freedom of expression and access to information in Africa⁶, which provides for several principles, including:

125.1. the protection of human rights defenders and others: providing that the protection afforded to journalists and other media practitioners in the declaration shall apply to every human rights defender and any other individual or group exercising their rights to freedom of expression and access to information through any medium.

125.2. that limitations on the exercise of the rights to freedom of expression and access to information are permitted only if the limitation is prescribed by law, serves a legitimate aim, and is a necessary and proportionate means to achieve the stated aim.

⁴ African Commission, “*Malawi African Association v Mauritania*”, Communication No. 54/91, 61/91, 98/93, 164/97, 196/97, 210/98, 2000, s 102, consulted online (<https://africanlii.org/afu/judgment/african-commission-human-and-peoples-rights/2000/19>)

⁵ *Konate v Burkina Faso* (004/2013) AfCHPR 43, s 129, consulted online (<https://africanlii.org/sites/default/files/judgment/afu/african-court/2018-afchpr-43//Konate%20v%20Burkina%20Faso%20%28004%20of%202013%29.pdf>)

⁶ Declaration of principles on freedom of expression and access to information in Africa (Adopted by the African Commission on Human and People’s Rights at its 65th ordinary session held from 21 October to 10 November 2019 in Banjul, The Gambia), consulted online (<https://www.achpr.org/public/Document/file/English/Declaration%20of%20Principles%20on%20Freedom%20of%20Expression%20ENG%202019.pdf>)

125.3. The terms “necessary and proportionate”, have been interpreted the require the limitation:

- 125.3.1. to originate from a pressing and substantial need, that is relevant and sufficient;
- 125.3.2. to have direct and immediate connection to the expression and disclosure of information;
- 125.3.3. to be the least restrictive means of achieving the stated aim; and
- 125.3.4. to be such that the benefit of protecting the stated interest outweighs the harm to the expression and disclosure of information.

126. S 7(2) of the Constitution requires the State to “*respect, protect, promote and fulfil the rights in the Bill of Rights*”. It has been repeatedly recognised that the State’s international law obligations are relevant when considering whether the State has met its s 7(2) obligations.

127. Accordingly, the extent to which the State must *respect, protect, promote and fulfil the rights to freedom of expression* these international law imperatives are important in the consideration of whether the limitations imposed by s 154(2)(b) of the CPA are justifiable.

128. I turn now to provide a brief comparative analysis of foreign jurisdictions.



COMPARATIVE LEGAL FRAMEWORK

The United Kingdom

129. Until 1988, law in the United Kingdom Parliament protected the anonymity for defendants in rape cases under the Criminal Justice Act 1988. A Criminal Law Revision Committee report in 1984 found the argument about equality between rape defendants and complainants was not valid "*despite its superficial attractiveness*" and the protection was repealed in 1988. In this regard, I attach an article in the UK Parliament publication entitled '*Anonymity for Defendants in rape cases*' as **Annexure CP 26**.⁷
130. Supporters of the repeal contend that naming suspects before charges are brought, encourage other victims and witnesses to come forward. It has been noted that the current legislative position against the anonymity of defendants promotes confidence in the criminal justice system and justice is seen to be done by victims. Additionally, some argue that anonymity would lead to 'secret charges'. In this regard, I attach as **Annexure CP 27** a 2016 article published by UK law firm Corker Binning, entitled '*Naming no names? Anonymity for suspects and complainants in criminal investigations*'.⁸

Canada

⁷ UK Parliament, "Anonymity for defendants in rape cases", consulted online (<https://www.parliament.uk/business/publications/research/key-issues-parliament-2015/justice/anonymity-for-defendants/>)

⁸ Nick Barnard, "Naming no names? Anonymity for suspects and complainants in criminal investigations", 2016, consulted online (<https://corkerbinning.com/naming-no-names-anonymity-for-suspects-and-complainants-in-criminal-investigations/#page=1>)



131. In Canada, the Youth Criminal Justice Act grants anonymity to persons charged with a crime **only** if they are below the age of eighteen. The Canadian Criminal Code also offers similar protection of identity to complainants in any form of sexual assault cases.
132. There are no other provisions in Canadian law aimed at protecting the identity of accused persons. Canada recognises and observes an “*open court principle*” which permits public access to court proceedings and court records. Canada considers this principle as a “hallmark of a democratic society”. To illustrate, I attach a publication by the Public Prosecution Service of Canada, entitled ‘Guideline of the Director Issued under S 3(3)(c) of the Director of Public Prosecutions Act’⁹ as **Annexure CP 28**.
133. The Criminal Code does, however, authorise courts to order publication bans when necessary to prevent a serious risk to the proper administration of justice, and where alternative measures will not prevent the risk. In this process, courts weigh the various rights and principles, including the right to a fair and public trial; the right to freedom of expression and the effectiveness of the administration of justice.
134. Publication bans are generally used to encourage witnesses who are afraid to testify, protect vulnerable witnesses, encourage victims and others to report offences that are usually under-reported (such as sexual offences), or protect the

⁹ Public Prosecution Service of Canada, “Guideline of the Director Issued under S 3(3)(c) of the Director of Public Prosecutions Act”, 2014, consulted online (<https://www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p3/ch04.html>)



privacy of other justice system participants. Ordinarily, however, as stated above, suspects of all crimes can be publicly named in Canada. The attached '*Guide to Publication Bans in Sexual Assault Cases*' published in the Ontario Women's Justice Network entitled, marked **Annexure CP 29**, explains the position.¹⁰

The United States of America

135. While the United States Constitution protects the right to privacy, that right is considered subordinate to the rights of freedom of speech and of the press. Publication bans are therefore virtually unavailable in the US, and the Supreme court has favoured the interests of the public over that of an individual's freedom from unwanted publicity. US courts have held that the press cannot be held criminally or civilly responsible for disclosing an individual's identity, including the identity of juveniles accused of criminal offences.

Sweden

136. In Sweden freedom of expression and of the press are protected under the Freedom of Press Act (Tryckfrihetsförordningen) and the Fundamental Law on Freedom of Expression (Yttrandefrihetsgrundlag), two of the four laws that constitute the Swedish Constitution. However, publishers' freedom is not absolute.

137. Media often follow Ethical Guidelines on Publishing, in which s 15 provides that an individual's right to private life shall be respected in the program activities unless an undeniable public interest demands otherwise. The general rule for State

¹⁰ Ontario Women's Justice Network, "Guide to Publication Bans in Sexual Assault Cases", consulted online (<https://owjn.org/2016/08/guide-to-publication-bans-in-sexual-assault-cases/>)



media is to refrain from publishing the names of persons suspected or accused of a crime.

138. According to an article in the Swedish Library of Congress '*Sweden: Swedish Media Criticized by Swedish Press Council for Publishing Names of #MeToo Accused Without Cause*', attached as **Annexure CP 30**, the approach of the media is to publish the names of accused persons only when the crime "*is particularly serious and when there is great public interest*" or if the offence concerns a public figure. Notably, the policy:

138.1. relates to all crimes and is not limited to sexual offences; and

138.2. applies only to the press and not to individuals (i.e. victims or third parties) who publish information on their private social media.¹¹

India

139. The Indian Penal code prohibits disclosure of the identity of the victim in certain offences, mostly sexual offences, but does not offer the same protection to the accused.

140. In June 2015, the State government informed the Bombay High Court to abide by a set of instructions contained in a 2014 circular, ordering the police and prosecutors not to disclose the identities of accused persons to the media.

¹¹ Library of Congress, "Sweden: Swedish Media Criticized by Swedish Press Council for Publishing Names of #MeToo Accused Without Cause", 2018, consulted online (<https://www.loc.gov/item/global-legal-monitor/2018-10-04/sweden-swedish-media-criticized-by-swedish-press-council-for-publishing-names-of-metoo-accused-without-cause/>)

Accordingly, police and prosecutors are only able to disclose such information once the charge sheet has been filed in court. However, these guidelines only concern the authorities, not victims or third parties. In this regard, I attach an article from an Indian online publication attached as **Annexure CP 31**, which explains the position in India.¹²

Australia

141. While most States in Australia have their own regulations, all States prohibit the publication of complainants' identities (or identifying information) in sexual offences cases. In States such as Victoria, New South Wales, Western Australia and Tasmania no similar protection is granted to defendants. However, Queensland, South Australia and Northern Territory prohibit what is referred to as the "premature" publication of identifying information of defendants. Premature refers to the time period before the defendant is committed for trial or the time at which the accused person first appears in court.

Ireland:

142. The Criminal Law (Rape) Act 1981 in Ireland provides for the anonymity of a person accused of a rape offence, but that protection is lifted when/if the accused is found guilty. This was introduced as a counterbalance to the anonymity provision for complainants. However, this legislation does not confer an absolute

¹² Bhavya Dore, "Don't name the accused, victims, witnesses: Crime reporting in Maharashtra could change for good", 2015, consulted online (<https://scroll.in/article/749937/dont-name-the-accused-victims-witnesses-crime-reporting-in-maharashtra-could-change-for-good>)

right to anonymity in all sexual offences. Rape, defilement, and incest offences are the only sex crimes that carry automatic pre-conviction immunity.

143. In 2020, a report commissioned by the Irish Government, attached as **Annexure CP 32**, recommended that the right to anonymity extends to include defendants of all sexual assault offences.¹³

144. Due to these highly restrictive rules, data shows that the majority of rapists are never named publicly, even after conviction.¹⁴ Moreover, the argument has been advanced that this increases the prevalence of the underreporting of sexual violence. Many experts working in the sexual violence arena in Ireland believe only about 10 per cent of sexual offences is ever reported to the Garda (the national police in Ireland), and there is a concern about the considerable under-reporting of sexual violence in the Irish society.¹⁵ I attach two articles from Irish publications which explain the problems which arise from the Irish position:

144.1. **Annexure CP 33:** The Irish Times' "*Untangling the vexed question of anonymity in sex cases*", and

144.2. **Annexure CP 34:** Irish Examiner's "*Under-reporting of sexual violence, still a major issue, RCNI figures show*".

¹³ Paul Hosford, Irish Examiner, "Naming of sexual assault victims online is of 'great concern'", 2020, consulted online (<https://www.irishexaminer.com/news/arid-40028420.html>)

¹⁴ Conor Gallagher, The Irish Times, "Untangling the vexed question of anonymity in sex cases", 2014, consulted online (<https://www.irishtimes.com/news/crime-and-law/untangling-the-vexed-question-of-anonymity-in-sex-cases-1.1708235>)

¹⁵ Noel Baker, Irish examiner, "Under-reporting of sexual violence, still a major issue, RCNI figures show", 2020, consulted online (<https://www.irishexaminer.com/news/arid-40191939.html>)

General Observations

145. According to a World Population Review in 2022 on *Rape Statistics by Country*, attached as **Annexure CP 35**, data on sexual violence in Europe indicate that Sweden has the highest number of reported rapes.¹⁶ (Tragically, the Report identifies South Africa as the country with the third highest rape rate in the world)
146. Notably, it is argued that because the Swedish legal system has shown significant improvement in arresting and convicting persons guilty of rape and has created an environment where victims feel supported, victims are more likely to trust the justice system, come forward and report the sexual offences, particularly rape.
147. The argument is supported by another interesting statistic from Ireland which, according to an article in the Irish Examiner "*Ireland has highest level of claimed sexual harassment in Europe*", attached as **Annexure CP 36**, has the highest level of sexual harassment claims. As I explained above, the prohibition in Ireland on the publication of identifying information of accused persons is restricted to sexual offences such rape, defilement and incest and not sexual harassment. This, too, indicates that, when victims of sexual offences are permitted to speak out, the number of reported cases increases.¹⁷

¹⁶ World Population Review, consulted online (<https://worldpopulationreview.com/country-rankings/rape-statistics-by-country>)

¹⁷ Conall O Fatharta, Irish Examiner, "Ireland has highest level of claimed sexual harassment in Europe", 2019, consulted online (<https://www.irishexaminer.com/news/arid-30909757.html>)



MAINSTREAM MEDIA BREACHES OF S 154(2)(B)

148. Despite the prohibition on publication contained in this section, there are examples where the media have published the details of an accused in a sexual offences matter, including his name and photograph, before he has pleaded.
149. On 30 September 2018 the City Press published two articles on the so-called '*Dros Rape*' case. The first article informed readers of what they could expect in that day's City Press edition, with the headline '*Inside the Dros Rape Horror*', and included the name and a photograph of the of the alleged rapist, Nicholas Ninow (**Annexure CP 37**). The second article (**Annexure CP 38**) details the alleged facts of the rape as reported by City Press's sister publication Rapport, including the name and a photograph of the accused. All this information was published prior to the accused pleading to the charges.
150. On 1 November 2018, the Sowetan newspaper published an article covering the same sexual offence, with the headline '*Dros Rape Accused Nicholas Ninow to be sent for psychiatric evaluation*' (**Annexure CP 39**). The article provides details of the accused, his name and photograph, as well as details of the alleged offence. This was published before the accused had pleaded.
151. A more recent example of a breach of the section is the matter where the Finance Minister Mr Enoch Godongwana was accused of sexual assault. TimesLIVE reported on 19 August 2022 that the Minister had been informed by the police of the sexual assault charges against him (he was issued with a 'warning statement')



and that he had provided a statement to the police as part of their investigation, placing his denial on record (**Annexure CP 40**).

152. The following day, 20 August 2022, the same news agency TimesLIVE on their Heraldlive.co.za website published an article titled '*Family of Godongwana's accuser breaks silence*', detailing the allegations against Mr Godongwana, as well as his name and a photograph of him (**Annexure CP 41**).

153. The above articles clearly breach of s 154(2)(b) but as far as I am aware no charges have been laid against the media outlets who published the articles and no prosecutions have ensued.

BENEFITS OF NAMING AN ACCUSED IN A SEXUAL OFFENCES MATTER BEFORE PLEADING

154. Given the serious nature of sexual offences, many suspects are detained by the police shortly after charges have been laid against them by a complainant. The suspect is most often arrested immediately, charged by the police, and taken for their first appearance in court within 48 hours of their detention. The docket is presented to the National Prosecuting Authority who determines whether there is a *prima facie* case linking the accused to the offence, and if in the affirmative, the matter is enrolled for the accused's first appearance before a magistrate. There then follows a period of further investigation by the police to gather evidence: such as witness statements, forensic analyses, and expert reports. This period of investigation may take several months before the accused pleads to the charge(s) in question.



155. Investigations which require information concerning the details of the offence or similar offences relating to the accused, such as eyewitness accounts or tracing additional victims, is effectively impeded by the provisions of s 154(2)(b). This is because the details of the offence, most importantly the identity of the accused, may not be published.

155.1. However, publishing the name of the accused and other details of the sexual offence, essentially making the alleged offence and offender public, would actually serve to enhance an investigation. Such publication may alert other victims who have been sexually assaulted or raped by the same suspect, and in a similar manner (*modus operandi* of the accused).

155.2. For victims who do not know the identity of their assailant(s), publication of the manner in which an alleged crime was committed may encourage such victims to come forward and, possibly, reveal serial rape cases;

155.3. For victims who know the identity of their assailant, but who were too afraid to report the offences committed against them, publication of charges put to their assailant may encourage them to come forward (knowing that other victims have come forward against a particular accused often emboldens victims to speak out and report the sexual offence perpetrated against them);

155.4. Publication may also alert other witnesses (not victims) to come forward who were unaware that a sexual offence had taken place but have evidence



which would support the case against the accused (for example, an eyewitness who could negate an alibi of an accused).

156. The above are but a few examples of the positive consequences of naming an accused charged with a sexual offence before he has pleaded.

157. A good example is an article by News24, published on 7 March 2022 and titled '*Suspended Bolt driver accused of rape might be linked to other cases with same modus operandi – cops*' (**Annexure CP 42**). News24 complied with s 154(2)(b) by not naming the accused (although they did publish some details of the charges in question), but it is clear that the police suspected the accused of having committed a number of similar offences. Publishing his name and an identifying photograph could have greatly assisted the investigation by alerting other victims that the accused had been identified and arrested. Those victims may then have been encouraged to report the sexual offences perpetrated against them by the same accused. Given the low rate of arrests, prosecutions and convictions in sexual offences cases, additional complainants in a matter of this nature would be invaluable to securing a conviction against the accused.

158. Another example is an article published on 19 February 2022 by News24 titled '*Attorney accused of sexually assaulting advocate will face a disciplinary hearing - Legal Practice Council*' (**Annexure CP 43**). Again, the name and identifying details of the accused were not published by News24 in compliance with s 154(2)(b). The article published that an attorney was facing prosecution for the sexual offence allegedly perpetrated against an advocate. As pointed out above,

there always exists a chance that the perpetrator may have offended against other victims; by making his identity public, other victims would be alerted to the charges and may be emboldened to report the offence(s) committed against them. This would strengthen the investigation and the case against the accused.

159. A third example is that of Adv. Paul Kennedy, who was accused and arrested of a number of sexual offences committed between September 2020 and July 2021.
160. In compliance with s 154(2)(b) his identity was not published. The article published by News24 on 18 October 2021 (**Annexure CP 44**) titled '*Top advocate's co-accused in child sex ring previously charged with sexually assaulting boy, 11*' details how law enforcement agencies, in the course of their investigation against another accused (now Kennedy's co-accused), linked Kennedy to the offences. The accused were not identified in the article. Publication of the name of the first accused, when he was first identified, may have resulted in Kennedy being linked to the offences and arrested earlier. In addition, given that the allegations involved a '*sex ring*', there were presumably multiple victims and other perpetrators. By making the names and photographic images of both accused public, many more victims may have come forward earlier to assist in the investigation and more perpetrators may have been identified and arrested.
161. An article published by News24 on 4 December 2021 details how the charges against Kennedy and his co-accused (still not named in terms of s 154(2)(b))

increased from the initial 34 charges to 735 charges relating to rape, sexual assault, human trafficking, and child pornography (**Annexure CP 45**).

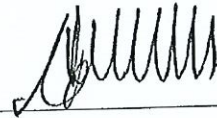
162. It was only on 21 February 2022, after he had died, that News24 published Kennedy's identity (name and photographs). Although he had still not pleaded, the s 154(2)(b) prohibition no longer applied as the charges were withdrawn after his death (**Annexure CP 46**).

CONCLUSION

163. For all the reasons discussed above, I believe s 154(2)(b) read together with ss 153(3) and 154(5) of the CPA constitutes a tool to silence women - particularly victims of sexual violence and their allies - from speaking out against sexual offences.

164. This application, therefore, is aimed at decriminalising the exercise by victims of sexual offences of their right to speak out against their assailants.

165. I therefore humbly pray for the relief set out in the Notice of Motion.

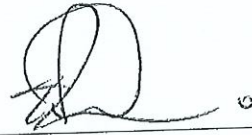


CAROLINE PETERS



Cape Town

"I certify that the above affidavit was signed and sworn to at before me on this the 29th day of November 2022 by the deponent after she declared that she knew and understood the contents of this affidavit, that she had no objection to taking the prescribed oath which she regarded as binding on his conscience and after he uttered the words: "I swear that the contents of this affidavit are true, so help me God".



COMMISSIONER OF OATHS

IZAK DAWID DU PLESSIS
8TH FLOOR, 5 ST. GEORGE'S MALL
CAPE TOWN, 8001
COMMISSIONER OF OATHS
PRACTISING ATTORNEY, R.S.A.

Capacity:

Full names:

Physical address:



"CP 1"

WYNBERG DISTRICT COURT 4

New cases will not appear on this list.

DATE: 13 October 2021

	CASE NUMBER	ACCUSED	CHARGES	POSITION OF ACCUSED	ATTORNEY	REASON ON ROLL
POSTPONEMENTS						
1.	4/148/21	David Potgleter Faseeg Thompson Graham Galant	Murder	I/C (AVR) I/C (AVR) O/B	Ms Mani Ms Mani Ms Ziemkendorf	F/I, Acc 1 + 2
2.	4/501/21	Oswald Williams	Murder + AGBH	I/C (AVR)	Ms Mani	F/I
3.	4/537/21	Witter Malla	Rape + abduction	I/C (AVR)	Ms Mani	F/I
4.	4/673/21	Ebrahim Paulsen	Theft	I/C (AVR)	Ms Mani	F/I
5.	4/740/21	Enver Hassim	Murder	I/C	Mr Adams	Ball Info
6.	4/705/21	Makhumani P	Sexual Assault	O/W	Ms Mani	RCD
7.	4/585/21	Lycon Harns	Sexual Assault	O/W	Mr Stander	F/I
8.	4/636/21	[REDACTED]	Rape	O/B	Mr Johnson	F/I
9.	4/583/21	[REDACTED]	Robbery Aggr.	O/B	Mr Ferreira	F/I
10.	4/571/21	Musa Madoka	Att. Rape	O/B	Ms Mani	F/I
11.	4/537/21	Darren Morgan	Robbery Aggr.	O/B	Ms Mani	F/I
12.	4/546/21	Brian Du Plessis Peter Michaels	Poss of stln MV	Ball set Ball set	Ms Mani	F/I
13.	4/517/21	Nono Tchilika				

"CP 2"



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REPUBLIC OF SOUTH AFRICA

"CP 3"

FORM 3
[Regulation 4]
INTERIM PROTECTION ORDER
SECTION 3(2) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)

(*Delete whichever is not applicable)

Take note: In terms of section 10(4) of the Protection from Harassment Act, 2011, the physical, home and work address of the complainant or related person must be omitted from the protection order (including any reference to such an address in documents annexed to the interim protection order), unless the nature of the terms of the order necessitates the inclusion of the address.

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF Khayelitsha

HELD AT Khayelitsha APPLICATION NO. 201 121

In the matter between: [Redacted] [Redacted] G [Redacted] (Complainant)

AND Caroline Peters (Respondent)

1. PARTICULARS OF RESPONDENT

Name and surname: Caroline Peters

Address: [Redacted]
Cape Town.

Contact number (telephone number/cellular phone number/facsimile number/e-mail address (whichever is available)):

2. PARTICULARS OF APPLICATION

The complainant applied for a protection order against the respondent in terms of the Protection from Harassment Act, 2011 (Act No. 17 of 2011). This court, after considering the application, issued an interim protection order against the respondent.

1

3. PARTICULARS OF INTERIM PROTECTION ORDER

In terms of the interim protection order:

- 3.1 The respondent is prohibited by this court from —
- (a) engaging in or attempting to engage in harassment of —
 - (i) the complainant; and/or
 - (ii) the following related person/s:

.....

(b) enlisting the help of another person to engage in harassment of the complainant and/or above related person/s; and/or

(c) committing any of the following acts:

- (i) ANY SOCIAL MEDIA POSTS RELATING TO THE APPLICANT IN ANY WAY INCLUDING PHOTOS AND COMMENTS
- (ii) ANY FORM OF EMOTIONAL OR PSYCHOLOGICAL HARASSMENT
- (iii)

*3.2 The court imposes the following additional conditions that are necessary to protect and to provide for the safety and well-being of the complainant or related person/s:

- (a) THE RESPONDENT IS TO REMOVE ALL PREVIOUSLY POSTED PHOTOS AND COMMENTS RELATING TO THE APPLICANT, FROM HER SOCIAL MEDIA ACCOUNT
- (b)
- (c)

*3.3 The court orders:

* (a)	That a member of the South African Police Service is to seize the following weapon(s):
* (b)	That a member of the South African Police Service is to accompany the complainant or related person to the following residence: to supervise the collection of the complainant's or related person's personal property set out in paragraph 8 of the application for a protection order, and such member is authorised to take all reasonable steps to effect the collection of the said property.



4. The respondent is called upon to show cause on 13/12/2021 (the return date) at 08:30 (time) at the abovementioned court, why the court should not issue a final protection order.

5. The return date specified in paragraph 4, above, may be anticipated by the respondent on not less than 24 hours' notice to the applicant and the court.

6. If the respondent does not appear on the return date and if the court is satisfied that —

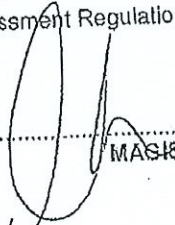
- (a) proper service has been effected on the respondent; and
 (b) the application contains *prima facie* evidence that the respondent has engaged or is engaging in harassment,

the court must issue a final protection order.

7. A copy of the application of the complainant and the record of any evidence noted during proceedings are attached for the information of the respondent.

8. In terms of section 16 of the Act the court may make an order as to costs against a party if it is satisfied that the party in question has acted frivolously, vexatiously or unreasonably.

9. In terms of sections 3(3) and 15(a) of the Protection from Harassment Act, 2011, Staphane Katulen (name and surname), who is a *clerk of court/*sheriff/*peace officer is hereby directed to serve the interim protection order, a copy of the application for a protection order and the record of evidence noted on the respondent in accordance with regulation 28 of the Protection from Harassment Regulations, 2013.



 MAGISTRATE

MAGISTRATE	
Private Bag 21, Kinoyalaba 7704	
2021-11-11	DATE
KHAVELIFSHA MAGISTRATE'S COURT	
Office stamp	

TAKE NOTE:

(a) A warrant of arrest has been authorised for the arrest of the respondent, the execution of which is suspended subject to the respondent's compliance with any specified prohibition, condition, obligation or order contained in this protection order.

(b) A respondent who contravenes any specified prohibition, condition, obligation or order contained in the protection order is in terms of section 18(1)(a) of the Protection from Harassment Act, 2011, guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years.






REPUBLIC OF SOUTH AFRICA

FORM 2
[Regulation 3]
APPLICATION FOR PROTECTION ORDER
SECTION 2(1) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)

In the Magistrate's Court for the District of

Application number: 201 20..21

Name of complainant: G [REDACTED]

This form is to be lodged with the clerk of the court

Is the complainant in possession of or in the process of applying for a protection order against harassment or stalking as provided for in the Domestic Violence Act, 1998 (Act No. 116 of 1998).

Yes No

PART A : APPLICATION

(*Delete whichever is not applicable)

1. PARTICULARS OF COMPLAINANT

Surname:	G [REDACTED]
Full names:	[REDACTED]
Identity number:	[REDACTED]
Date of birth:	[REDACTED]
Home or temporary address:	[REDACTED] KHAMECITSHA
Home/contact telephone number/s:	[REDACTED]
Work address:	[REDACTED] SIMONS TOWN
Work telephone number:	[REDACTED]
Occupation:	MILITARY PRACTITIONER

[Handwritten signature]

*2. PARTICULARS OF PERSON MAKING THE APPLICATION ON BEHALF OF THE ABOVEMENTIONED COMPLAINANT (If applicable)

Surname:	
Full names:	
Identity number:	
Date of birth:	
Home or temporary address:	
Home/contact telephone number/s:	
Work address:	
Work telephone number:	
Occupation:	
Nature of relationship with the complainant:	
State reason(s) why application is made on behalf of the complainant:	
Indicate whether written consent of complainant has been obtained: (Delete whichever is not applicable)	<p>* (a) Written consent has been obtained and is attached.</p> <p>* (b) Written consent is not necessary since the complainant is a child (under the age of 18 years).</p> <p>* (c) The complainant is unable to provide written consent because:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

3. PARTICULARS OF RELATED PERSONS AFFECTED BY HARASSMENT (A RELATED PERSON IS ANY MEMBER OF THE FAMILY OR HOUSEHOLD OF A COMPLAINANT, OR ANY OTHER PERSON IN CLOSE RELATIONSHIP TO THE COMPLAINANT):

Name:	Age:	Relationship to complainant:

4. INFORMATION REGARDING ACTS OF HARASSMENT

(Take note:

- (a) Supporting affidavits by persons who have knowledge of the matter concerned may accompany this application and must be annexed as an annexure to this form.
- (b) If reference is made to any documents, photographs, recordings, videos etc. —
- (i) the original thereof must at all times be kept by the complainant for purposes of submitting it as evidence in this application and a subsequent hearing that may take place;
 - (ii) copies of documents and photographs may be attached to this form as an annexure; and
 - (iii) copies of audio and video recordings may also be attached to this form as an annexure if it is furnished on a CD, DVD or other computer readable device and in a computer readable format and sealed in an envelope.)
- (c) TAKE NOTE: All annexures to this document must be —
- (i) numbered alphabetically starting with "A"; and
 - (ii) listed under paragraph 10, below.

Give full details of all incidents of harassment:

✓ ON 05 NOVEMBER 2021, I APPEARED AS AN ACCUSED PERSON IN A MATTER RELATED TO A SEXUAL OFFENCE. THE MATTER IS STILL UNDER INVESTIGATION AND I HAVE NOT PLEADED TO THE CHARGES. I APPEARED AT COURT 4 AT THE WYNBERG MAGISTRATE COURT. DURING THE PROCEEDINGS, THE MAGISTRATE TOLD A MEMBER OF THE PUBLIC NOT TO TAKE PICTURES OF ACCUSED PEOPLE. I BELIEVE THAT THIS PERSON WAS TAKING PICTURES WITH A CELLPHONE OF ME WHILE I WAS STANDING IN THE DOCK. THE PICTURES WERE DELETED BY THE COURT ORIGINALLY AND THE INCIDENT WAS REPEATED IN THE ARTICLE WRITTEN BY GENEVIEVA SERRA FOR THE CAPE TIMES NEWSPAPER. AFTER THE COURT,

I SCROLLED THROUGH FACEBOOK AND CAME UPON THE FACEBOOK PROFILE OF CAROLINE PETERS. SHE IS THE EXECUTIVE DIRECTOR OF CALLAS FOUNDATION. ACCORDING TO HER LINKEDIN AND FACEBOOK PROFILES, ACCORDING TO CAROLINE PETERS'S FACEBOOK POSTS, SHE WAS AT WYNBERG COURT AND TOOK PICTURES OF ME WHILST INSIDE THE COURT AND TOOK PICTURES INCLUDING THE ROLL OF COURT WITH MY NAME AND THE DETAILS OF MY ALLEGED OFFENCE. I HAVE ADDED THE SCREENSHOT OF HER POSTS ON 05 NOVEMBER 2021. I SCROLLED FURTHER THROUGH HER FACEBOOK PROFILE AND NOTICED THAT SHE HAD PREVIOUSLY POSTED PICTURES OF ME WHILST IN COURT IN THE DOCK. SHE HAD POSTED PICTURES OF ME ON 13 OCTOBER 2021 AND THIS INCLUDED A PICTURE OF THE COURT ROLL AND SHE SPECIFICALLY CIRCLED MY NAME WITH A RED MARK. HER PICTURES AND POST HAVE BEEN SHARED MULTIPLE TIMES. HER CONDUCT HAS HARMED ME AND CAUSED ME PAIN AND SEVERAL SUFFERING. THE POST ALSO POSES A RISK ON MY LIFE. I HAVE OPENED A CRIMINAL CASE AGAINST CAROLINE PETERS ^{NUMBER} CAS 39/11/2021 AND IT HAS BEEN TRANSFERRED TO UNCLELEIGH WEST FOR INVESTIGATION. I BELIEVE THAT CAROLINE PETERS ALSO CONTRAVENED SEC 154(2)(b) CRIMINAL PROCEDURE ACT NO 51 OF 1977 (AS AMENDED). THE ACT MAKES IT A CRIMINAL OFFENCE FOR ANY ONE TO PUBLISH ANY IN ANY MANNER, ANY INFORMATION RELATED TO A CHARGE IN SEC 153(3) CPA WHERE THE ACCUSED PERSON HAS NOT PLEADED THE PROHIBITION CARRIES A FINE OR IMPRISONMENT OF UP TO THREE YEARS OR BOTH.

6. PARTICULARS OF RESPONDENT (PERSON RESPONSIBLE FOR HARASSMENT OF THE COMPLAINANT OR RELATED PERSON):

*5.1 To be completed where the respondent is known to the complainant:

Surname:	PETERS
Full names:	CAROLINE
Home address:	UNKNOWN
Address where respondent can likely be found:	[REDACTED] CAPE TOWN
Telephone number:	
Facsimile number:	
E-mail address:	
Cellular phone number:	[REDACTED]
Work address:	[REDACTED] CAPE TOWN
Work telephone number:	[REDACTED]
Occupation:	EXECUTIVE DIRECTOR

*5.2 To be completed where respondent is unknown to the complainant and uses electronic communications to harass complainant:

The name of the service provider which provides a service to the complainant or related person over which the harassing communication was received (for example XYD Internet service provider which provides an Internet service to the complainant/related person who is the owner/user of the computer which received a harassing e-mail):	FACEBOOK POSTS ON 13 OCTOBER AND 05 NOVEMBER 2021
The electronic communications identity number associated with the aforementioned service to which the harassing communication was sent (for example the Internet Protocol (IP) address assigned to the computer of the complainant/related person or cellular phone number or telephone number which received the harassing communication):	

<p>The electronic communications identify number from where the harassing communication originated, where available (for example the e-mail address and/or IP address accompanying the harassing electronic communication or a web-address which contains harassing content or cellular phone number from which the harassing communication originated):</p>	
<p>Date, time and duration of harassing communication, if applicable (for example the complainant received a harassing cellular phone call on 12 December 2012 at 12h00 which lasted 12 minutes):</p>	<p>FROM 13 OCTOBER 2012 TO DATE</p>

*5.3 To be completed where respondent is unknown to the complainant and physically harasses the complainant:

Will you be able to identify the respondent: Yes No

(a) Description of respondent: ELDERLY COLOURED FEMALE
WITH BLACK HAIR

(b) Location where respondent can probably be found: ..

(c) Any other information that might assist the South African Police Service in tracing the respondent:
SHE IS THE DIRECTOR OF CALLEAS FOUNDATION

(d) (i) Did the complainant or related person make a statement under oath or affirmation at a police station that he or she intends to apply for a protection order against harassment against a person whose name and address are unknown to the complainant: Yes No

(ii) If the answer under paragraph (d)(i) is yes, please state the following particulars:

At which police station was the statement made:	WYNBERG
Date and time of making the statement:	1200 06 NOVEMBER 2021
Reference number:	WYNBERG CAS 29/11/2021

6. INFORMATION REGARDING URGENCY OF APPLICATION

Submit the reasons why the court has to consider the application as a matter of urgency:

THE FACEBOOK POSTS BY CHARLIE PETERS ARE UNLAWFUL THE POSTS ARE CAUSING ME PAIN AND SUFFERING. THE POSTS ARE ENDANGERING MY LIFE IN A MANNER THAT I HAVEN'T EVEN PLEADED ON. THE POSTS ARE A CONTINUOUS VIOLATION OF MY BEST RIGHTS AND ARE BEING SPREAD AND SHARED THROUGHOUT FACEBOOK WITH THE PASSING OF EVERY MINUTE.

7. TERMS OF PROTECTION ORDER

The court is requested to --

7.1 prohibit the respondent from --

- *7.1.1 engaging in or attempting to engage in harassment of the complainant;
- *7.1.2 engaging in or attempting to engage in harassment of the related persons whose particulars are provided in paragraph 3, above;
- *7.1.2 enlisting the help of another person to engage in harassment of the "complainant"/related person;
- *7.1.3 committing any of the following act/s:
 - (a) POSTING ON FACEBOOK POSTS RELATED TO MY CASE AND THE CHARGE
 - (b) POSTING ON FACEBOOK PICTURES AND POSTS WHICH CAN BE USED TO IDENTIFY ME
 - (c) HARASSING ME IN COURT BY TAKING PICTURES OF ME

*7.2 impose the following additional conditions that are necessary to protect and to provide for the safety and well-being of the "complainant"/related person:

- (a) PREVENT CALVIN PETERS OR HIS AGENTS FROM COMING TO COURT.
- (b) Physically
- (c) Emotionally

*7.3 order (mark appropriate space and complete where necessary):

*(a)	That a member of the South African Police Service is to seize the following weapon(s)	
*(b)	That a member of the South African Police Service is to accompany the complainant or related person to the following residence: to supervise the collection of the complainant's or related person's personal property set out in paragraph 8, below.	
*(c)	That the station commander of the police station must investigate the matter with the view to instituting a criminal prosecution against the respondent.	

8. PERSONAL PROPERTY

Property description:	Grounds on which property is considered to be personal property:	Address where property is kept:

9. POLICE STATION WHERE BREACH OF PROTECTION ORDER WILL LIKELY BE REPORTED

I am likely to report a breach of the protection order at the LINGFELT - WEST Police Station.

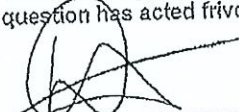
10. INDEX OF ANNEXURES TO THIS FORM

Mark each Annexure alphabetically, starting with "Annexure A", and attach it to this form.	Give short description of Annexure, for example "statement of witness X", "CD with photographs".
ANNEXURE A	NEWS PAPER ARTICLE ON COPE TIMES
ANNEXURE B 1 & 2	FACEBOOK AND LINKEDIN PROFILE
ANNEXURE C 1 & 2	CAROLINE PETERS POSTS ON 05 NOV 21
ANNEXURE D 1 & 2	CAROLINE PETERS POST ON 13 OCT 21
ANNEXURE E 1 & 2	S 154 OF CRIMINAL PROCEDURE ACT

WARNING:

* It is a criminal offence to make a false statement in an affidavit for the application for a protection order.

* The court may make an order as to costs against a party if it is satisfied that the party in question has acted frivolously, vexatiously or unreasonably.



 *Signature/*thumb print /*mark of *complainant/*person who applies for a protection order on behalf of the complainant

09 November 2021

 Date



PART B: CERTIFICATION

I certify that before administering the "oath /" taking the affirmation I asked the Deponent the following questions and noted "her/his answers in "her/"his presence as indicated below:-

- (a) Do you know and understand the contents of the above declaration? Answer: Yes
- (b) Do you have any objection to taking the prescribed oath? Answer: NO
- (c) Do you consider the prescribed oath to be binding on your conscience? Answer: Yes

I certify that the Deponent has acknowledged that "she/"he knows and understands the contents of this declaration which was "sworn to / "affirmed before me, and the Deponent's "signature / "thumb print / "mark was placed thereon in my presence.

Dated at Khayelitsha this 09 day of November 2021

Justice of the Peace / Commissioner of Oaths

Full Names: Siziphwe Patuleni

Designation: DV

Area for which appointed: Khayelitsha

Business Address: Corner of Steve Biko and corner of Walter Sisulu road, Khayeka.

To be completed by the clerk of the court

PART C:

1. I, Siziphwe Patuleni, the clerk of the above-mentioned court, received the application for a protection order on (date): 09/11/2021 (time): 08:30am

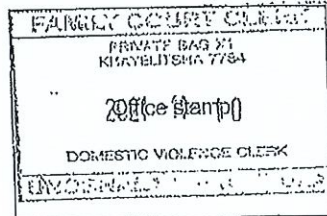
2. I have completed the attached acknowledgement of receipt and handed it to the person who lodged this application for a protection order.

PART D:

The application for a protection order was submitted to (name and surname of magistrate):

Mrs Williams on (date): 10/11/2021 (time): 15:00

Signature of clerk of the court: [Signature]



[Handwritten marks]



Acknowledgement of receipt of application for a protection order by clerk of the court

(Take note: This acknowledgement of receipt must be handed to the person who lodges the application with the clerk of the court)

Application number: 201 20 21

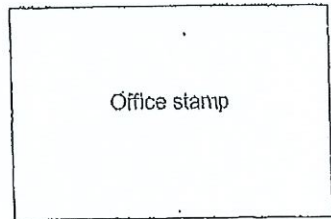
Name of complainant: [Redacted] [Redacted]

I, Siziphwe Patubeni the clerk of the Magistrate's Court
for the District of khayelitsha hereby acknowledges receipt of
the application for a protection order against harassment.

[Signature]
.....
Signature of clerk of the court:

Date: 09/11/2021

Time: 08:30am




[Signature]
[Signature]



WEEKEND ARGUS / NEWS

SANDF officer accused of double rape case postponed to December 14 2021, file image

SANDF officer accused of double rape faces a crowd of women's rights activists

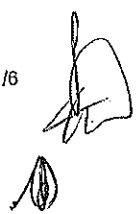
By Genevieve Serra  Nov 5, 2021



Cape Town - Women's Right activists turned out in their numbers at the Wynberg Magistrates' Court where a South African National Defence Force (SANDF) member accused of double rape appeared this morning (Friday).

The 40-year-old suspect who was smartly dressed in a jacket and jeans, was told by court officials about the presence the protesters in court.

The group of Women's Rights Activists who lined the court benches were told to leave the room due to Covid-19 protocols. Some were wearing ANC t-shirts calling for justice for the victim.



A few activists were allowed back inside and one woman who had taken a photograph of the suspect was warned by a police officer that she could be charged for contempt of court.

The Magistrate then spoke directly to the woman who handed her cellphone over to the police officer who deleted the picture.

There was additional drama with a woman's cellphone being snatched from the court bench.

The court heard that the suspect who is out on bail had consulted with his attorney on October 21.

The State said while the investigation was incomplete, consultations with the victim was needed for paperwork to be completed. The consultation date was set for November 30 2021.

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The matter was postponed to December 14.

According to the *Cape Times*, SA Navy spokesperson, Commander Rachel Dulamo, said the officer said no disciplinary action had been taken against the SANDF member as yet as they were awaiting the outcome of the police's investigation and court matter.

Weekend Argus

CRIME AND COURTS

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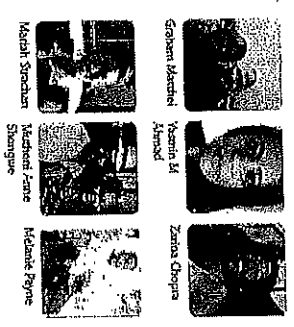
Advertisement

Caroline Peters

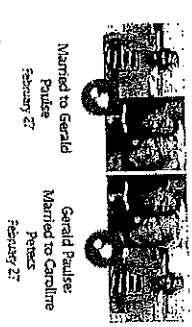


Write a comment...

Caroline Peters is at Wyberg Magistrate Court.

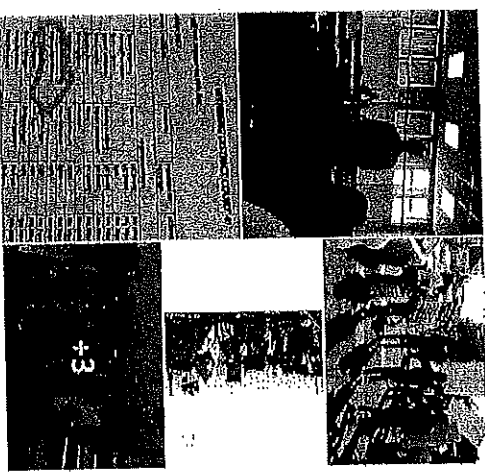


Life Events See All



Did You Know See All Answers

Same Adams Thanks for being and being so supportive to all in our communities.



2 Comments 4 Shares

Caroline Peters

Intro

- Add Site
- Director at Child Community Projects
- Programs Manager at 1000 Women 1 Voice
- Went to Bridgeman High School Cape Town
- Education

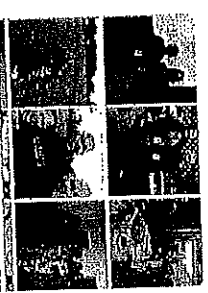
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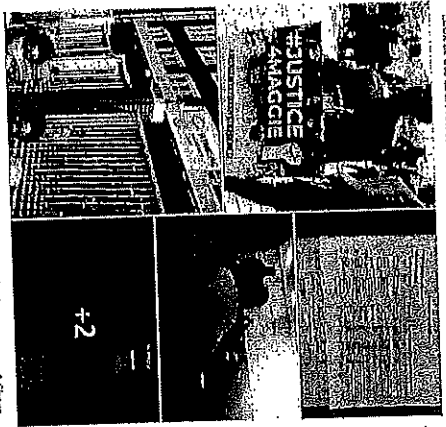
Share

Sibham Reaz
This is just one much, many more I really hope they find those responsible. I'm sure the system is weakening with all the bad people of our beloved country.

Write a comment...

Caroline Peters is with Nombhobo Band and 3 others at Wynberg Magistrate Court
November 5th 2015 at Cape Town

Look at the court roll and the amount of rape cases!



Wynberg Magistrate Court and 24 others
Like Comment Share
1 Share

Handwritten signature or initials in the bottom right corner.

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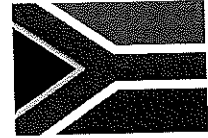
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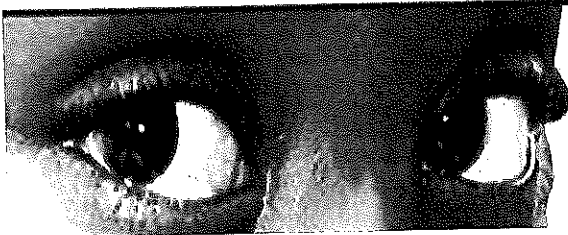


MENU

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16 Days of Activism for No Violence Against Women and Children

DON'T LOOK AWAY ACT AGAINST ABUSE



16 DAYS OF ACTIVISM

FROM PEACE IN THE HOME TO PEACE IN THE WORLD
LET'S CHALLENGE MILITARISM AND END
VIOLENCE AGAINST WOMEN

ADD YOUR VOICE TO THIS CAMPAIGN
Join a world effort for the 16 days from 25 November to 10 December

25 November - 10 December

Don't look away, act against abuse

Background

2013 activities

What can you do

What is government doing

Where to get help

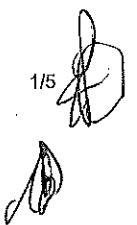
Background

The 16 Days of Activism for No Violence Against Women and Children is an international campaign. It takes place every year from 25 November (International Day for the Elimination of Violence Against Women) to 10 December (International Human Rights Day). The period includes Universal Children's Day and World AIDS Day.

During this time, the South African Government runs a 16 Days of Activism Campaign to make people aware of the negative impact of violence on women and children and to act against abuse. We are firmly committed to lead a coordinated effort to sustain the campaign into its next decade.

Every year, government, civil-society organisations and the business sector work together to broaden the impact of the campaign. By supporting this campaign, thousands of South Africans have also helped to increase

<https://www.sanews.gov.za/special-features-archive/16-days-activism-no-violence-against-women-and-children>



awareness of abuse and build support for victims and survivors of abuse.

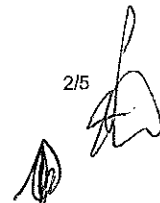
2013 activities

- Govt gears up for 16 Days campaign, 12 November 2013
- Government events
- Speeches and statements
- Photo gallery
 - Launch of 16 Days of Activism for No Violence against Women and Children, 24 Nov

What can you do?

Together, let us take actions to support the 16 Days of Activism for No Violence Against Women and Children campaign.

- Support the campaign by wearing the **white ribbon** during the 16-day period: A white ribbon is a symbol of peace and symbolises the commitment of the wearer to never commit or condone violence against women and children.
- Join the **cyber dialogues initiative**: The cyber dialogues facilitate on-line discussions amongst people to discuss issues related to the abuse of women and children, share experiences and propose solutions. Professional experts in the caring professions (social workers, psychologists, counsellors) and political principals also participate in the on-line chatroom. The discussion takes place in cyber space in chat-room format, with discussions in real time via various access points (Thusong Centres) around the country. Gender Links (an NGO) hosts the cyber dialogues with role players, including Women's Net, the Gender Advocacy Programme and Government Communications (GCIS).
- Participate in the various **16 Days of Activism events and activities**: A calendar outlining events taking place around the country over the period of the 16 days will be made available.
- **Volunteer in support of NGOs and community groups** who support abused women and children: Many organisations need assistance from the public. You can volunteer your time and make a contribution to the work of institutions. Help plant a garden at a shelter, sponsor plastic tables and chairs for kids at a clinic or join an organisation as a counsellor. Use your skills and knowledge to help the victims of abuse.
- **Donations**: You can donate money to organisations working to end violence against women and children by making a contribution to the Foundation for Human Rights. The Foundation receives money raised during the campaign and distributes it to non-governmental organisations. There is no minimum or maximum amount set for your donation it is up to you! Tel: 011 339 5560/1/2/3/4/5.
- **Speak out against woman and child abuse.**
 - Encourage silent female victims to talk about abuse and ensure that they get help.
 - Report child abuse to the police.
 - Encourage children to report bully behaviour to school authorities.
 - Men and boys are encouraged to talk about abuse and actively discourage abusive behaviour.
 - Seek help if you are emotionally, physically or sexually abusive to your partner and/or children. Call the Stop Gender Based Violence helpline (0800 150 150).
 - Talk to friends, relatives and colleagues to take a stand against abuse of women and children.
 - Try and understand how your own attitudes and actions might perpetuate sexism and violence.
- **Join community policing forums (CPFs)**. The community and the local police stations are active partners in ensuring local safety and security. The goal is to bring about effective crime prevention by launching intelligence-driven crime-prevention projects in partnership with the local community. You may want to also become a reservist, a member of the community who volunteers his/her services and time to



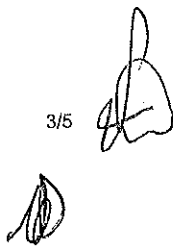
support local policing efforts to fight crime. For more information on how to join, contact your local police station.

What is government doing?

- Government is establishing a **Council on Violence against Women and Children**. The Advisory Council will comprise of key government departments, civil society organisations and other relevant partners. It will coordinate comprehensive initiatives implemented to stop the scourge.
- The Women Empowerment and Gender Equality Bill (Draft) will provide government with the legislative authority to fast-track the empowerment of women and address issues of enforcement and compliance towards the attainment of our target of 50/50 gender parity.
- Development of a barometer to measure the number of women who will benefit from the five million jobs that we seek to create in the next 10 years under the New Growth Path, will highlight the high impact of unemployment on women.
- Government provides support to children to fight child poverty.
 - More than 10,5 million children benefit from the child support grant, while we provide foster care benefits to over 563 000 vulnerable children.
 - Government subsidises close to 800 000 children at early childhood development centres to enable children from poor households to obtain early education. In addition, more than eight million children at primary and secondary schools benefit from school-feeding schemes.
- On 6 June 2011, Government launched the Strategy and Guidelines on Children Working and Living in the Streets [PDF]. This Strategy provides guidance on the services and programmes to be rendered to children living and working in the streets.
- The Expanded Public Works Programme and a community works programme provide short-term employment opportunities while also responding to pressing community challenges.
- The Green Paper on Families [PDF] seeks to strengthen and support families as the cornerstone of a well-functioning society.
- Government led a national Rural Women's Summit in May 2011 to empower women with information on how to access various departmental programmes. With the help of Government, women in Tzaneen run successful farms, mining as well as arts and crafts projects. These projects employ a number of people and their products are sold in domestic and foreign markets.
- Since 1994, Government has developed several pieces of legislation to redress the wrongs affecting women and children.

Where to get help

- What if you are abused [PDF]
- Counselling and support for women
 - National Crisis Helpline (Lifeline) 0861 322 322
 - Stop Gender-Based Violence Helpline 0800 150 150
 - People Opposed to Women Abuse 011 642 4345
 - Family and Marriage Society of South Africa 012 460 0733
 - National Network on Violence Against Women 012 321 4959
- Counselling and support for children
 - Childline 0800 055 555
- Social Security
 - Child support grants 0800 601 011
- Healthcare
 - Marie Stopes clinics 0800 11 77 85



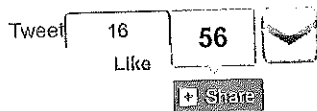
- Depression and Anxiety Group 011 783 1474
- AIDS Helpline 0800 012 322
- AID for AIDS 0860 100 646
- Legal assistance
 - Legal Aid Board 011 845 4311
 - Lawyers for Human Rights 011 339 1960
- Campaigns for men who support no violence
 - Men as Partners Project 011 833 0504
- Information
 - Sexual Harassment Education Project 011 403 0541
 - Centre for the Study of Violence and Reconciliation 011 403 5650
- South African Police Service
 - 10111
 - Suicide Crisis Line 0800 567 567

Related information

- Every eight hours: Intimate femicide in South Africa 10 years later! [PDF] South African Medical Research Council Research brief, August 2012
- Child homicide patterns in South Africa: Is there a link to child abuse? [PDF] South African Medical Research Council Research brief, August 2012
- Orange Day: UNITE to End Violence against Women
- United Nations: Facts and figures

Articles

- Zuma urges for more help for victims of abuse
- Battle against gender based violence is everyone's business
- Road closures in NW for 16 Days campaign launch
- Xingwana launches 16 Days campaign
- 16 Days campaign to kick off on Sunday
- Govt gears up for 16 Days campaign



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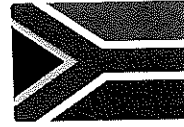
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Speak out against abuse of women

20 August 2014



Minister
Faith Muthambi

During Women's Month a light is shone on the various issues which confront women on a daily basis. What inevitably emerges is a mixed bag of the successes and challenges that still confront women.

On the macro level the lives of many women have undergone a sea change since 1994, partly due to the bold steps our country has taken to institutionalise gender equality and women empowerment.

Today many of the rights and freedoms that the brave women of 1956 demanded are entrenched in our Constitution. Gender equality is a constitutional imperative in South Africa and far reaching legislation has been implemented to ensure protection for women.

Despite these successes South Africa is still plagued by gender violence which is a continued blight on our democracy and freedom.

Women's Month is generally characterised by campaigns from government, the media and civil society which seek to increase awareness about issues affecting women.

During this period the media generally concentrate on violence against women and usually highlight a specific case, or cases. This often triggers a national outcry and a sharpened focus on the issue of women abuse and violence.

However, once the month passes we tend to simply return to our lives and the plight of women is shelved until the 16 Days of Activism campaign starts in November.

This is simply not good enough. The women of our nation; our mothers, wives, partners, children, sisters, aunts, family members or co-workers - deserve more.

The sad truth of our nation is that away from the spotlight of Women's Month there is an alternate reality where women are abused and violated in the most horrific ways. It is easy to assume that these abuses occur in the dark underbelly of society and are far removed from our daily lives.

However, the reality is very different. Sometimes women are attacked by strangers, but most often they are hurt by those dearest to them, such as a husband, partner or somebody they know. Violence and abuse against women is therefore not someone else's problem. It is our common problem, and we must do more as a society to protect and nurture the women and children in our lives and communities.

There are those who would argue that legislation and enforcement is the solution, but the reality is that such interventions can only go so far. Government has been at the forefront of fighting the scourge of women abuse through various initiatives. Chief among these is a series of legislation specifically aimed at protecting women and children. The police and the existing courts are empowered under the Domestic Violence Act, Sexual Offences Act and Children's Act to arrest, prosecute and convict perpetrators of violence against women and children.

Our courts have also sent a strong signal to would be perpetrators by handing out severe sentences to those found guilty of women abuse and violence.

Has this been enough to stop the scourge? Unfortunately the answer is no.

Legislation, enforcement and tough sentences by themselves are ineffectual. Women abuse is a societal issue and can therefore only be defeated if every South African agrees that enough is enough.

The perpetrators and those who are complicit in allowing these vile acts to occur have no place in society, and communities must act to isolate and expose them. We can no longer simply turn a blind eye and believe it is not our place to interfere.

It is simply not good enough for communities and neighbours to only raise their voices after a terrible tragedy has unfolded. It is not uncommon to read in newspapers that many people knew of the abuse but simply kept quiet. If we say nothing we are just as guilty; through our silence we condemn women to a daily cycle of abuse that often ends in death.

Government therefore calls on our communities to do more. It starts with being able to recognise the patterns of violence and abuse which take many forms. It can include;

- Dating violence
- Domestic and intimate partner violence
- Emotional and psychological abuse
- Human trafficking
- Same-sex relationship violence
- Sexual assault and abuse
- Stalking
- Violence against immigrant and refugee women
- Violence against women at work
- Violence against women with disabilities

The time has come for communities and women in general to speak out against this scourge because silence kills. It is therefore up to all of us to stand up and say no more!

Together we can establish and entrench a culture in which women are valued and respected. All South Africans must partner with government to create a safer and healthier space for our communities to thrive. Change starts with you and me; collectively we can stop the unending cycle of abuse against our mothers and daughters.

Faith Muthambi is Minister of Communications



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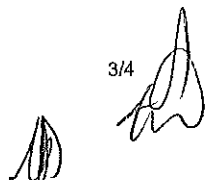
Statements

Documents

Events

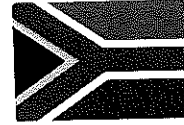
Key issues

Government opinion pieces





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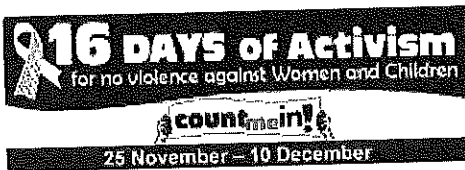
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16 Days of Activism for No Violence Against Women and Children 2014



25 November - 10 December

Count me in: Together moving a non-violent South Africa forward

- Background
- Objectives of the campaign
- What is violence against women and children?
- What can you do
- What is government doing
- Where to get help

Background

The 16 Days of Activism for No Violence Against Women and Children is an international awareness-raising campaign. It takes place every year from 25 November (International Day for the Elimination of Violence Against Women) to 10 December (International Human Rights Day). The period includes Universal Children's Day and World AIDS Day.

This year's 16 Days of Activism for No Violence Against Women and Children Campaign (16 Days campaign) is important because we commemorate many milestones. The year 2014 marks 60 years since the signing of the Women's Charter on 17 April 1954 in Johannesburg; 20 years of freedom and democracy in South Africa and 16 years of the 16 Days of Activism Campaign.

South Africa adopted the campaign in 1998 as one of the intervention strategies towards creating a society free of violence. The campaign continues to raise awareness amongst South Africans about the negative impact of violence against women and children (VAW&C) on all members of the community.

Objectives of the campaign

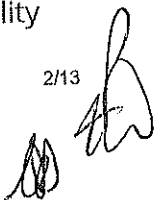
The objectives of the 16 Days Campaign are to:

- Attract all South Africans to be active participants in the fight to eradicate VAW&C; hence the theme: ***"Count me in: Together moving a non-violent South Africa forward."***
- Expand accountability beyond the Justice, Crime Prevention and Security (JCPS) cluster to include all government clusters and provinces.
- Combine technology, social media, the arts, journalism, religion, culture and customs, business and activism to draw attention to the many ways VAW&C affects the lives of all people in all communities around the world.
- Ensure mass mobilisation of all communities to promote collective responsibility in the fight to eradicate violence against women and children.
- Encourage society to acknowledge that violence against women and children is NOT a government or criminal justice system problem, but a societal problem, and that failure to view it as such results in all efforts failing to eradicate this scourge in our communities.
- Emphasise the fact that the solution lies with all of us.

What is violence against women and children?

Violence takes many forms, for example:

- Physical violence in the form of domestic violence, terrible violent crime such as murder, robbery, rape and assault.
- Emotional violence and trauma at many levels caused by many factors. Women and children in their homes, at work, at schools, on our streets, in our communities suffer this form of violence for various reasons.
- Another terrible blight of our democracy is the violence of poverty, starvation, humiliation and degradation, especially against women and children. Poverty, inequality

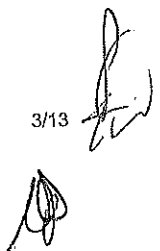


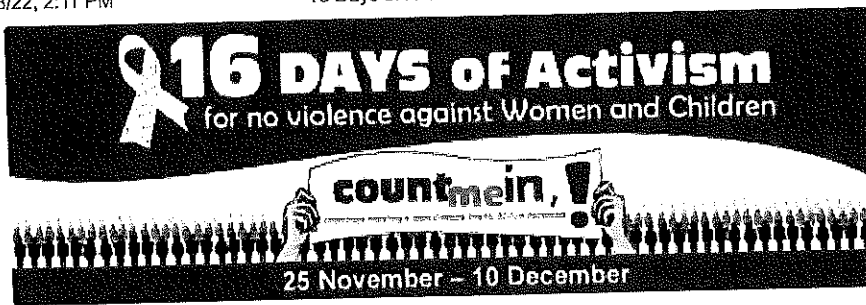
and unemployment are conditions under which violence thrives.

What can you do?

Together, let us take actions to support the 16 Days of Activism for No Violence Against Women and Children campaign.

- Support the campaign by wearing the **white ribbon** during the 16-day period: A white ribbon is a symbol of peace and symbolises the commitment of the wearer to never commit or condone violence against women and children.
- Participate in the various **16 Days of Activism events and activities**: See the calendar outlining events taking place around the country over the period of the 16 days.
- **Volunteer in support of NGOs and community groups** who support abused women and children: Many organisations need assistance from the public. You can volunteer your time and make a contribution to the work of institutions. Help plant a garden at a shelter, sponsor plastic tables and chairs for kids at a clinic or join an organisation as a counsellor. Use your skills and knowledge to help the victims of abuse.
- **Speak out** against woman and child abuse.
 - Encourage silent female victims to talk about abuse and ensure that they get help.
 - Report child abuse to the police.
 - Encourage children to report bully behaviour to school authorities.
 - Men and boys are encouraged to talk about abuse and actively discourage abusive behaviour.
 - Seek help if you are emotionally, physically or sexually abusive to your partner and/or children. Call the Stop Gender Based Violence helpline (0800 150 150).
 - Talk to friends, relatives and colleagues to take a stand against abuse of women and children.
 - Try and understand how your own attitudes and actions might perpetuate sexism and violence.
 - Spread the message on social media using #16Days2014
- **Join community policing forums (CPFs)**: The community and the local police stations are active partners in ensuring local safety and security. The goal is to bring about effective crime prevention by launching intelligence-driven crime-prevention projects in partnership with the local community. You may want to also become a reservist, a member of the community who volunteers his/her services and time to support local policing efforts to fight crime. For more information on how to join, contact your local police station.





What is government doing?

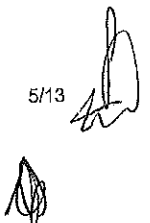
- The Women Empowerment and Gender Equality Bill provides government with the legislative authority to fast-track the empowerment of women and address issues of enforcement and compliance towards the attainment of our target of 50/50 gender parity.
- On 6 June 2011, Government launched the Strategy and Guidelines on Children Working and Living in the Streets [PDF]. This Strategy provides guidance on the services and programmes to be rendered to children living and working in the streets.
- The Green Paper on Families [PDF] seeks to strengthen and support families as the cornerstone of a well-functioning society.
- Since 1994, Government has developed several pieces of legislation to redress the wrongs affecting women and children.
- The Prevention and Combating of Trafficking in Persons Act (Act No 7 of 2013) fights trafficking of young girls and women, and also the practice of ukuthwala, a form of abduction that involves kidnapping a girl or a young woman by a man and his friends or peers with the intention of compelling the girl or young woman's family to agree into marriage.
- **Government events for 2014**
 - Western Cape Community Safety and Cultural Affairs hosts 16 Days of Activism events, 22 Nov to 9 Dec.
 - Calendar outlining events [PDF]
- **Government speeches and statements**
 - President Jacob Zuma: Launch of 16 Days of Activism of No Violence against Women and Children campaign in Reiger Park, 25 Nov 2014
 - Minister Susan Shabangu: Debate on 16 Days of Activism for No Violence Against Women and Children 21 Nov 2014
- **Opinion pieces**
 - Yes, we can reduce violence in our country, 2 Dec 2014 - Minister Jeff Radebe
 - Time for a peaceful revolution, 24 Nov 2014 - Pregs Govender, SAHRC Deputy Chair

- Photos of events

- 16 Days of Activism for No Violence Against Women and Children launch, 25 Nov 2014

Where to get help

- What if you are abused [PDF]
- Service contacts [PDF]
 - SAPS Crime Stop
08600 10111
 - Gender-Based Violence Command Centre
0800 428428/0800 GBV GBV
 - STOP Gender Violence Helpline
0800 150 150/ *120*7867# from any cell phone
 - Childline- Report child abuse
0800 055 555
 - Elderly people helpline
0800 003 081
 - Family and Marriage Society of South Africa – Advice on family relationships
011 975 7107
 - Thuthuzela Care Centres-
012 8456136
 - Suicide Crisis Line
0800 567 567
 - Alcoholics Anonymous SA
0861 435 722 Substance Abuse Helpline 0800 121 314
 - Narcotics Anonymous SA
0839 00 69 62
 - Mental Health Information Line
0800 567 567
 - AIDS Helpline
0800 012 322 / 011 725 6710
 - National Anti-Corruption Hotline
0800 701 701
 - Disaster Operations Centre
080 911 4357
 - Crisis Line
0861 574747



- National Crisis Line- Counselling Service
086 132 2322
- Human Trafficking
08000 737 283 (08000 rescue) / 082 455 3664
- SASSA- Grants enquiries
0800 60 10 11 or CPS 0800 60 01 60
- SA National Council for Child Welfare
011 339 5741
- Legal Aid
0800 1110 110
- Presidential hotline - Unresolved service delivery complaints
17737 (1 PRES)
- National Anti-corruption Forum
0800 701 701
- Cancer Association of South Africa
0800 22 66 22

Speech Document:

[16days2014-calendar.pdf](#) [16days2014-contacts.pdf](#) [16days2014-poster.pdf](#)
[16days2014-poa.pdf](#) [ukuthwala.pdf](#) [16days-brochure.pdf](#)

Event Category: Commemorative events



RELATED INFORMATION

[Calendar outlining events \[PDF\]](#)

[2014 programme of action for the 16 Days campaign \[PDF\]](#)

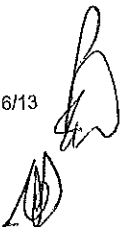
[Service contacts](#)

[16 Days of Activism 2014 campaign poster](#)

[What to do if you are abused](#)

[Every eight hours: Intimate femicide in South Africa 10 years later! \[PDF\]](#) South African Medical Research Council Research brief

[Child homicide patterns in South Africa: Is there a link to child abuse? \[PDF\]](#) South African Medical Research Council Research



KEY CONTACTS

This leaflet provides key contacts for information on services and support in the fight against violence on women and children.

SAPS Crime Stop
08600 10111

Gender-Based Violence Command Centre
0800 428428/ *120*7867# from any cell phone

STOP Gender Violence Helpline
0800 150 150

Childline – Report child abuse
0800 055 555

Elderly people helpline
0800 003 081

Family and Marriage Society of South Africa
– Advice on family relationships
011 975 7107

Thuthuzela Care Centre
– One stop service for victims
012 8456136

Suicide Crisis Line
0800 567 567

Alcoholics Anonymous SA
0861 435 722

Substance Abuse Helpline
0800 121 314

Narcotics Anonymous SA
0839 00 69 62

Mental Health Information Line
0800 567 567

AIDS Helpline
0800 012 322 / 011 725 6710

National Anti-Corruption Hotline
0800 701 701

Disaster Operations Centre
080 911 4357

Crisis Line
0861 574747

National Crisis Line- Counselling Service
086 132 2322

Human Trafficking
08000 737 283 (08000 rescue) / 082 455 3664

SASSA – Grants enquiries
0800 60 10 11 or CPS 0800 60 01 60

Legal Aid
0800 1110 110

National Anti-corruption Forum
0800 701 701

Cancer Association of South Africa
0800 22 66 22

16 DAYS

of Activism

for no violence against Women and Children

Protect my sister and my wife. Count me in. I love my family. I care for the safety of women and children. Count me in. I speak out against Gender Based Violence. I financially provide for my family. I don't punch others. I care for the safety of women and children. I speak out against Gender Based Violence. Count me in. I don't bully others. Count me in. I help family today is a healthy community tomorrow. Count me in. I will not allow my children, daughter and sister.

CountmeIn!

together moving a non-violent South Africa forward



25 November – 10 December

Together we move South Africa forward



REPUBLIC OF SOUTH AFRICA

How do I know I am being abused?

There are two main ways that you can tell if you are being abused:

1. If someone is saying things to you that you feel are offensive to you and your integrity and are hurting your feelings. The abuser may also ridicule or name-call, intimidate, harass, or stalk you. That is **VERBAL, PSYCHOLOGICAL** and **EMOTIONAL** abuse.
2. If someone is touching you in a way that is undignified, harmful – e.g. hitting, forcing you to have sex, pulling hair, grabbing or smacking you. The abuser may also damage your property or enter your residence without your permission. That is all **PHYSICAL** abuse.

Nobody has the right to hit, push, shove, shake, kick, slap or punch you.

If they love you, they would not harm you. If they respect you, they will not treat you with indignity and disrespect.

What do I do if I am being abused?

- **Don't suffer in silence:** If you are being physically, psychologically (mentally), emotionally or sexually abused, it is important that you seek help. You do not have to continue to suffer in silence.
- **Talk to someone you can trust:** confide in a friend, a neighbour, a relative, a spiritual leader or elder, a doctor, or a counsellor.
- **It is not your fault:** There is no excuse for any form of abuse and you do not have to put up with it. Both physical and emotional abuse is against the law and help is available through the legal system.
- **You can get help:** You can use the legal system to help you.
 - Go to the Domestic Violence Court closest to you and apply for a Protection Order.
 - Lay a criminal charge against the abuser, for example rape, sexual assault or physical violence

What are the signs that my friend is being abused?

- unexplained bruises, broken bones, sprains, or marks
- excessive guilt or shame for no apparent reason
- secrecy or withdrawal from friends and family
- avoidance of school or social events with excuses that don't seem to make any sense

How do I help an abused friend?

- **Listen:** A person who is being abused needs someone to empathetically listen to and believe him or her.
- **It is not his/her fault:** Help your friend understand that it is not his or her fault and that they are not the bad person but the abuser/perpetrator.
- **Encourage him/her to seek help:** Your friend also needs your encouragement to get help immediately from an adult, such as a parent, family member, or guidance counsellor.
- **If a friend has been raped:** Encourage the friend to go to a hospital within 72 hours to test for HIV. The hospital may start them on a short course of antiretroviral treatment that can reduce chances of getting HIV and report the matter to the police

How do I help an abused child?

- Talk to them gently
- Don't interrogate. Let the child explain to you in his or her own words what happened, but don't interrogate the child.
- Assure them they are not in trouble and that you will keep them safe.
- Tell them that you believe them and DO so
- Contact your nearest social worker and report the case
- Call Child line where you can report the case anonymously

Who do I call if someone I know is being abused?

- Gender-based Violence Helpline: 0800 428 428 / *120*7867 from any cell phone
- Childline: 0800 055 555
- SAPS Crime Stop: 08600 10111
- AIDS Helpline: 0800 012 322 / 011 725 6710

How can I stop abusing my partner/child?

- Acknowledge that what you are doing is wrong (no matter the degree).
- Stop rationalizing abusive treatment of other people as acceptable.
- Abuse is NEVER healthy or acceptable regardless of the messages you may have been taught or witnessed in the past.
- If alcohol makes you more likely to commit violence, stop or reduce.
- Avoid alcohol and drugs in dealing with your problems.
- Exercise and listen to soothing music to deal with stress.
- Walk away from the confrontation until you are calmed down.
- Go to the family elders, trusted friend, neighbour, church elders and community leaders for mediation of disputes.
- Seek professional assistance of a psychologist or other professionals.

Who can I call to help me stop my abusive behaviour?

- Gender-based Violence Helpline: 0800 428 428 / *120*7867 from any cell phone
- Stop Gender-based Violence Helpline: 0800 003 081
- Suicide Helpline: 0800 567 567

REMEMBER

Despite the fact that there is no time limit on reporting rape or sexual assault, it is however advisable that reporting rape or sexual assault be done as soon as possible. It is easier to get evidence needed for the court cases when the rape or sexual abuse is reported as soon as possible to ensure that the perpetrator is arrested. However, if the sexual crime was a sexual assault, then rape, you have 20 years within which to lay a charge of sexual assault. Even though the delays in reporting may no longer be a factor, you in your own interests should be advised to report the crime and that left on your body after the rape may be lost. When rape or sexual assault is reported to the police station or presenting yourself to the nearest clinic for forensic evidence to be collected and preserved.

Violence against women and children is never acceptable, never excusable, and never tolerable.

Vuk'uzenzele

Produced by Government Communications (GCIS)

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Break the cycle, speak out against abuse

16 Days of Activism

Violence against women and children is a violation of human rights that must be fought by all members of society.

The 16 Days of Activism for No Violence Against Women and Children is an international awareness campaign that asks people around the world to take a stand against women and child abuse.

What is the 16 Days of Activism about?

- It is a worldwide campaign to oppose violence against women and children.
- It aims to raise awareness of the negative impact that violence and abuse have on women and children and to rid society of abuse permanently.

The success of the campaign rests on our daily individual and collective actions to safeguard our society against the cycle of abuse

When does the campaign take place?

- The 16 Days of Activism campaign is held from 25 November to 10 December every year.

What are some of the causes of violence against women and children?

It stems from the low status of women in the home and in society.

It happens when men abuse power and positions of authority in order to control women and children.

What is abuse?

Any form of behaviour that causes:

- fear
- bodily harm
- a person to do things against their will.

Examples of abuse

- Emotional abuse
- Physical abuse
- Rape
- Sexual harassment
- Child abuse
- Financial abuse
- Stalking
- Damage to property.

It may also include trespassing or entry into a person's residence without consent.

A domestic violence case can be opened against:

- The person you are married to, whether by civil or customary rites.
- Your partner (whether of the same or opposite sex) who lives or has lived with you.
- The person you share parental responsibility with.
- People related to you by blood ties, marriage or adoption.
- The person you are engaged to, in a customary relationship, or dating.

Don't be a victim!

- Break the cycle of violence
- Break the silence
- Know your rights
- Act against abuse



- Do not look away!

Where to get help

- SAPS Crime Stop Tel: 08600 10111
- Gender-based Violence Command Centre Tel: 0800 428 428.
- Stop Gender Violence Helpline Tel: 0800 150 150 or sms *120*7867# from any cell phone
- Family and Marriage Society of South Africa (FAMSA) Tel: 011 975 7107
- Childline Tel: 08000 55 555
- National Crisis Line Tel: 086 132 2322
- SA National Council for Child Welfare Tel: 011 339 5741

General

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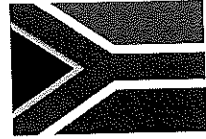
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Speak out against abuse

Saturday, November 25, 2017

South Africans are encouraged to speak out against abuse and report criminal cases to the police.

On Saturday, the country woke up to a hype of activities in various provinces to mark the launch of the annual campaign for 16 Days of Activism of No Violence against Women and Children.

In Mpumalanga, Dr JS Moroka Local Municipality residents gathered in their numbers to expand their knowledge on issues related to human rights, gender based violence and the abuse of women and children.

Various government departments and State Owned Entities supplied residents with information prior to the commencement of the official programme.

Speaking to residents, Communications Minister Mmamoloko Kubayi-Ngubane said it is everyone's responsibility to report incidents of abuse to the police.

She said if parents and community members do not report child abuse cases to the police, they are failing the wellbeing of the children.

"A child who did not get justice and counselling for undergoing trauma starts behaving in a weird manner. The pain sits with them..." said Minister Kubayi-Ngubane.

She said perpetrators should not be protected but reported so that the law can take its cause and justice can be served.

"Speak out against abuse. It is time for all of us to stand up, but we should refrain from taking the law into our own hands."

The Minister also called on residents to be kind and more caring to people living with disabilities, adding that they deserve efficient services like everyone else.

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Legislation to redress societal ills

Government has done a lot to combat abuse against women and children since 1994 such as developing several pieces of legislation to redress societal ills affecting them.

These include the prevention and combating of Trafficking In Persons which is aimed at fighting the trafficking of young girls and women, and also the practice of ukuthwala.

Cyber bullying

The Department of Communications, through its entity Films and Publications Board (FPB), has recently tabled a bill before parliament that seeks to protect cyber bullying against children.

Allow investigations to be conducted

Local police called on the community to allow investigations to be conducted without any hindrance, so that justice can be served.

A representative from the provincial police department said local police have a challenge with parents who drop charges of rape after receiving payments or settling deals with perpetrators.

JS Moroka Local Municipality Mayor William Thulare Madileng said the local police station should be extended so that services can be rendered to the community efficiently.

16 Days of Activism campaign

16 Days of Activism campaign takes place every year from 25 November to 10 December. South Africa adopted the campaign in 1998 as one of the intervention strategies towards creating a society free of violence.

The campaign continues to raise awareness among South Africans about the negative impact of violence against women and children.

Digital Migration

Meanwhile, the Minister also used the opportunity to create awareness about Broadcasting Digital Migration.

She visited various parts of the municipality in the morning ahead of the 16 Days programme, where she also handed over set top boxes to Pelonolo Special School in Marapyane and three homes in Ga-Maria.


The Minister said the department is currently looking at the roll-out model so that the implementation phase can be fast tracked.

"The department is working around the clock with all stakeholders involved to ensure that we come up with a faster delivery model." - SAnews.gov.za

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THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA

Published on *The Presidency* (<https://www.thepresidency.gov.za> (<https://www.thepresidency.gov.za>))

[Home](#) ([/](#)) > Address by President Cyril Ramaphosa at the Presidential Summit on Gender-Based Violence and Femicide, St Georges Hotel, Tshwane



Programme Director, Minister Susan Shabangu,
Minister of Women in the Presidency, Ms Bathabile Dlamini,
Minister of Justice and Correctional Services, Adv Michael Masutha,
Chief Justice, Hon Mogoeng Mogoeng,
Speaker of the National Assembly, Ms Baleka Mbete,
Representatives of civil society,
Fellow South Africans,

We are gathered here – as South African women and men – to respond to a crisis that is tearing our society apart.

It is a crisis that affects every community in our country and that touches the lives of most families in one way or another.

Gender-based violence is an affront to our shared humanity.

The unrelenting murder of women – for no reason other than that they are women – is steadily corroding the soul of our nation.

Survivors of sexual violence and abuse – be it physical, psychological or economic – often live with these scars for the rest of their lives.

When abuse occurs in a situation of trust, whether in the family, the church, in schools or elsewhere, the sense of betrayal is intensified.

The physical and psychological effects may recede, but they very rarely disappear.

One moment of violence can have permanent consequences.

Most of us know someone who is a survivor of gender-based violence or who has in some other way been affected by this evil.

In August, I made a commitment that we shall convene this Summit to develop a national plan of action against gender-based violence.

This promise was made following the activism, borne out of pain and anger, of those who held marches around the country to highlight the scourge of gender-based violence and femicide in this country.

We are agreed that we need a multi-sectoral approach that responds to the demands of the marchers, and strengthens the broader interventions that address the causes and effects of such violence.

We are here today to listen and learn from the experiences of survivors; to hear their voices and to have the lived experiences of women and children inform our responses to gender-based violence.

Gender-based violence is a global phenomenon.

The World Health Organisation tell us that 35% of women worldwide experienced either physical or sexual intimate partner violence or non-partner sexual violence in 2013.

This is an alarming figure that underscores the need for global cooperation in overcoming gender-based violence.

In South Africa, we know that the problem is even more severe.

We are a country with relatively high levels of violence and criminality.

Slightly more than 20,000 people were killed in the past year, the majority of the perpetrators and victims were men.

The most recent data from the World Health Organisation shows that South Africa's femicide rate was 12.1 per 100,000 in 2016.

This was almost five times higher than the global average of 2.6 per 100,000.

According to the SAPS Crime Statistics report of 2018, femicide increased by 11% over the last two years.

Stats SA reports that 138 per 100,000 women were raped last year, the highest rate in the world.

We cannot, and we will not, rest until we have brought those figures down to zero.

We are aiming for a femicide rate of zero per 100,000.

We want to reach a point where no woman, child or man has to experience the violence, violation and trauma of rape.

There is no acceptable level of gender-based violence.

We want to eradicate it.

Ladies and Gentlemen,

Women are often violated by their intimate partners, often in the privacy of their homes.

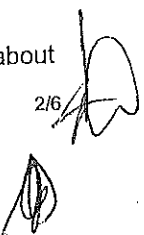
They are slapped, hit, raped, assaulted and emotionally abused and killed because they are with a man who feels entitled to exert power and control over them.

There is a danger that society begins to normalise such practices.

That is why we need to be vigilant.

Condemnation needs to be constant and consistent, perpetrators need to be prosecuted.

It requires that we address societal issues of patriarchy, economic relations and changing the way of thinking about



gender relations.

Patriarchy means that men feel entitled to exert economic and other forms of power over women.

This can lead to situations where women may find themselves tolerating the injustices perpetrated against them simply because they may have inadequate economic or emotional resources to walk away from a dangerous relationship.

Social perceptions about the roles of girls and boys, and preconceived notions of how women and men should behave, are often harmful to the development of both sexes.

When we improve the way we raise our children we can go a long way to preventing violence against girls and boys.

We must raise boys and girls with the knowledge and understanding that no person has the right to treat them as inferior or to harm them in any way and that boys and girls are equal in all respects.

A society that does not support notions of authority and control over women, and does not tolerate violence against women, is more likely to reduce gender-based violence.

We must name and shame those who perpetrate violence against girls and women.

Most importantly we must ensure that our law enforcement officers are trained to investigate the cases of abuse to get convictions in these cases.

There are several intersections between violence experienced by women and violence against children.

The effects of trauma on children are quite severe and last well beyond the immediate instances of violence.

Children who experience violence are more likely to experience violence or become perpetrators of violence in adulthood.

The Department of Basic Education needs to complete its curriculum transformation programme, especially the auditing of learning materials for latent sexism and racism.

The Department also needs to urgently speed up its programmes aimed at offering psycho-social support to vulnerable learners.

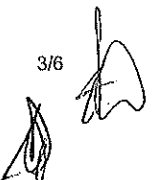
The programme to train officials and educators to recognise abused and at risk learners was started in two provinces in 2015 and needs to be mainstreamed by including such training in the pre-service training curriculum.

Alcohol and drug abuse is a major risk factor associated with gender-based violence.

Researchers suggest that alcohol and drugs either induce violence or are used as excuses for perpetrating violence on women and children.

Our country has significant substance abuse problems and we need better policies and programmes to prevent substance abuse.

Our society is too tolerant of violence against women, often forcing women to withdraw charges against the perpetrators.



Very often families exert the most pressure on women and children not to press charges against abusers.

A critical component of prevention strategies for gender-based violence is the empowerment of women.

Studies that were conducted here in South Africa show that where interventions are linked to the economic and social empowerment of women, intimate partner violence is decreased.

Where women become more economically, socially and culturally empowered they develop greater capacity to extricate themselves from abusive situations.

We need to invest more in research that develops evidence-based interventions to end gender-based violence.

Research shows contradictory results about whether the economic and social empowerment of adult men makes a marked difference on whether they continue to perpetrate violence.

However, better results are found where education programmes target boys and young men.

Boys and young men who participate in school-wide programmes targeting change in social attitudes tend to show a marked reduction in peer violence.

This points to the need to target our education programmes at young children in order to make a difference in attitudes from the start.

Despite having progressive laws and being a signatory to many international instruments – such as the Convention for the Elimination of All Forms of Discrimination against Women and the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power – our country does not have an effective, coordinated response to the scourge of gender based violence.

This failure to implement our laws and policies effectively is doing a complete disservice to survivors of gender-based violence and others affected by violence.

Protection orders can be obtained in terms of the Domestic Violence Act and, once issued by a magistrate, are enforceable throughout the country, but very often survivors have to flee to other parts of the country where it becomes difficult to obtain copies of those orders without going through the whole process again.

We should examine the possibility of introducing a national registry for protection orders.

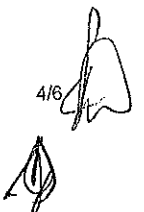
Government has responded to two specific demands raised during the August marches – conducting a review of national plans to end gender-based violence and the development of a National Action Plan on gender-based violence.

Together with civil society organisations, we have undertaken a review of our Programme of Action on Violence against Women and Children, and plan to launch the revised POA 2019–2023 during the 16 Days of Activism.

A frequent complaint is that the police and the court system are not equipped and capacitated to effectively assist survivors of gender-based violence and sexual assault.

This is tragically borne out by the numbers of women and children who tell stories of being turned away by the police when they go to report crime, the number of rape and sexual assault cases which are never prosecuted, and the low percentage of successful prosecutions of these cases.

As we work to address this, we need to hear from those who interact with our criminal justice system.



Please tell us what is working, where we need to improve, what needs to be scaled up and what must be done away with.

We are asking you, who deal with these issues on a regular basis, to work with us in developing effective response and support mechanisms.

The Thuthuzela Care Centres, our unique one-stop, integrated response to incidents of violent sexual acts against women and children, aim to reduce secondary victimisation, improve conviction rates and reduce the cycle time for finalisation of cases.

This is one of our more effective interventions and we must develop concrete proposals on how we can strengthen the operations of these centres.

We agree with the demand that we must continuously ensure that lay counsellors at these centres undergo ongoing training to deal with the needs of victims of violence.

One of the specific demands raised by activists was to establish a central, national coordinating structure for gender-based violence.

We should discuss here what form this should take, what must its mandate be and who should be on this structure.

Government has done extensive work in this area and as part of the review of the POA on Violence against Women and Children, the Department of Social Development has identified a number of possible models that are being assessed for their effectiveness and efficiency.

We now need to engage with the proposals from civil society and see where we find each other.

We must seriously re-examine how we talk about violence against women and children and how our discourse reflects societal norms.

It was extremely distressing to hear ordinary South Africans question why a parent would let a child play by herself after a six year old was recently raped at a well-known restaurant.

The degree of victim blaming evident in this statement is appalling.

We find similar or worse victim blaming in statements such as "Why does she stay with him if he beats her?" or "Why did she wear a mini-skirt to the taxi-rank?" or "How drunk was she?"

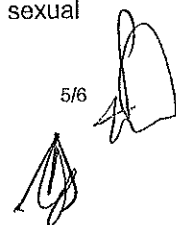
The language we use, too often, places the responsibility on the victim to not be raped or hit instead of placing the blame where it belongs: on the perpetrator.

This expression of patriarchy makes it even harder for survivors of gender-based violence to seek justice.

As a society, we must applaud the courage of women like Cheryl Zondi who are prepared to testify about their ordeals.

As a society, we must express our deep gratitude to them for leading the way in the struggle against sexual violence and affirm our commitment to support and protect them.

Let us pledge here and now to begin to change the way we communicate about gender-based violence and sexual assault.



Our language must empower and support the voices of survivors.

The communication commission at this Summit needs to propose how we educate the media, and more importantly, broader society on how to communicate in gender sensitive ways.

South Africans have consistently shown that we have a great capacity to deal with big, contentious issues through meaningful and respectful dialogue.

Let us now do this again.

Let us put aside the issues that divide us and work together for the greater good.

I call on all South Africans to become champions of the fight against gender-based violence and femicide.

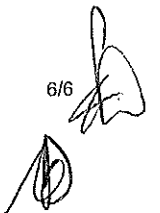
This is a societal problem that requires multi-faceted, society wide responses.

Personally, I pledge to you that government is here, we are listening and will continue to respond to your concerns.

We are looking to this Summit to provide clear direction on a comprehensive national response to gender-based violence.

I am convinced that by working together, by confronting difficult issues, and by mobilising all South Africans, we shall create a society where women and children feel safe and are safe at all times and in all places.

I thank you.





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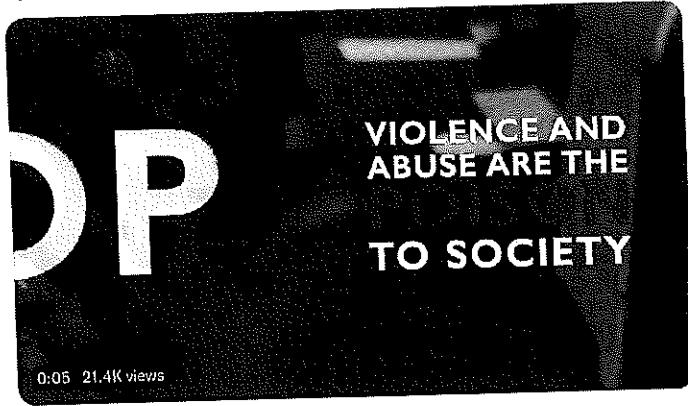
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Gender-based violence has no place in society. Let's create an open environment where victims never fear speaking out



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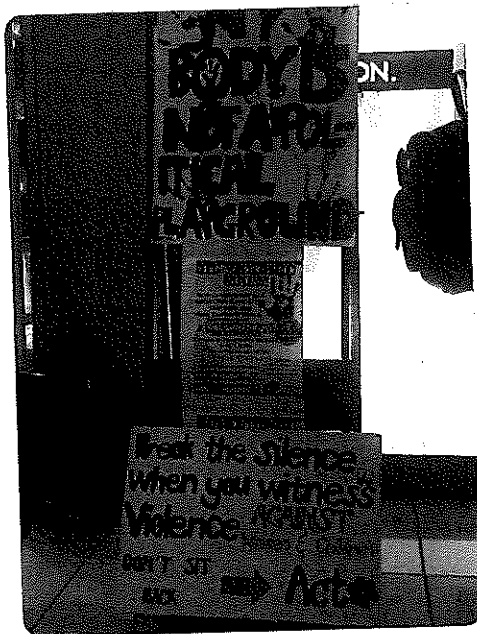
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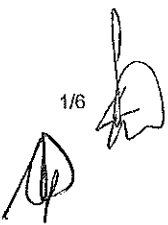
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"CP 12"



South African Government @GovernmentZA · Sep 2, 2019
Govt joins SA in the anger against the abuse of #UyinenMrwetyana. Violence against women and girls is a grave violation of human rights, and we are calling on law enforcement agencies to ensure the wheels of justice are turned in this case.

241 replies 398 retweets 190 likes

South African Government @GovernmentZA · Sep 2, 2019
It is worrying that violence, rape and abuse seem to have become so common and govt is sounding the clarion call to all SAfricans to fight this deeply-rooted scourge.

24 replies 83 retweets 21 likes

South African Government @GovernmentZA · Sep 2, 2019
As part of responding to the problem of sexual offences, special sexual offences courts are set up across the country. They are built in such a way that children and victims get the necessary care, respect and support at the court. #GBV

17 replies 31 retweets 13 likes

South African Government @GovernmentZA · Sep 2, 2019
Thuthuzela care centres are one-stop centres which enable rape victims to lodge a case with the police and receive counselling and medical care. They are located in various areas in the country.

15 replies 30 retweets 12 likes

South African Government @GovernmentZA · Sep 2, 2019
A range of laws, policies, programmes and interventions are in place across all sectors to address gender-based violence and femicide, and the needs of all who are affected. Prevention remains the key element in turning the tide against gender-based violence and femicide #GBV

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Govt is also calling on men to lead the change we want to see in our

Thread

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South African Government @GovernmentZA

Society must break the silence, for the sake of our daughters, mothers, nieces - for every women and girl in our communities and society at large.

6:12 PM · Sep 2, 2019 · Twitter Web App

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South African Government @GovernmentZA · Sep 2, 2019
Replying to @GovernmentZA
We call on responsible father figures to instill the values of human dignity, equality and respect in young men and boys. Our young boys must be mentored and guided in their journey to adulthood so they value and respect women and children.

Relevant people

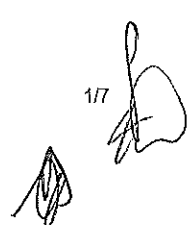
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The scourge of #GBV is a societal issue, all sectors have a role to play in ending gender-based violence. We encourage all religious and community leaders to speak out against GBV and work on building communities that unite against GBV.



3:11 PM · Sep 9, 2019 · Twitter Web App

7 Retweets 2 Quote Tweets 20 Likes



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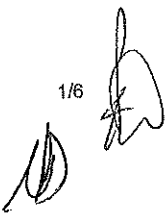
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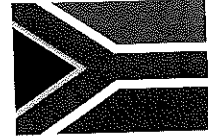
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REPUBLIC OF SOUTH AFRICA



MENU

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Break the silence, stop the violence

Friday, September 27, 2019

Enough is enough, no one has the right to abuse others, and this must stop, says Women, Youth, Children and Persons with Disabilities Minister Maite Nkoana-Mashabane.

This as public servants took to the streets to speak in one voice calling for an end to gender-based violence (GBV).

The march, which started from Church Square in Tshwane to the Union Buildings on Friday, was aimed at mobilising public servants to be champions to end violence against women and children abuse, and to sensitise all South Africans to acknowledge that violence against women and girls is a societal problem.

The Minister said that taking part in the march really shows how committed public servants are in ending GBV.

"This is long overdue and we must stand and start from today the 365 space. As government, we are here to declare war against gender-based violence and femicide, and to support all the victims of GBV.

"Never give space to perpetrators of violence and you should never harbour those criminals. Victims must be protected and that all employees must know that violation leads to dismissal," Mashabane said, adding that all government departments must have sexual harassment policies.

National Director of Public Prosecutions, Advocate Shamila Batohi, said they were not going to stand by and allow women and children to be abused in this manner any longer.

Batohi emphasised a need to redouble efforts to fight the scourge of violence against women and children.

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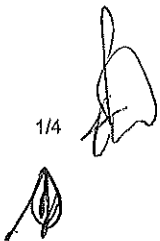
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"We know that one of the great deterrents to crime is the knowledge that there will be consequences, that there will be prosecutions (and) investigations, but that is where we are failing. A very small percentage of these cases that are reported, actually results in convictions," Batohi said.

She said she has met with National Police Commissioner Khehla Sitole about two weeks ago and they've put together a strategy on how collectively with their partners they can ensure that there are prosecutors dedicated to these cases.

Make GBVF your responsibility

Small Business Development Minister Khumbudzo Ntshavheni urged public servants to make the issue of GBV and femicide their responsibility to deal with it in their communities, as violence happens where they live.

"As government, we are committed to empowering women. We are not going to keep quiet when our friends are being abused ... we will fight anybody who rapes," Ntshavheni warned.

She also pleaded with the victims to refuse to withdraw the cases.

Public Service and Administration Minister Senzo Mchunu, joined by ministers, deputy ministers and Directors-General from various government departments came together to light a torch in memory of all the victims of GBV.

The march was also used to deliver a pledge where public servants recommitted to contribute towards the elimination of GBV in the Public Service and their communities. - SAnews.gov.za

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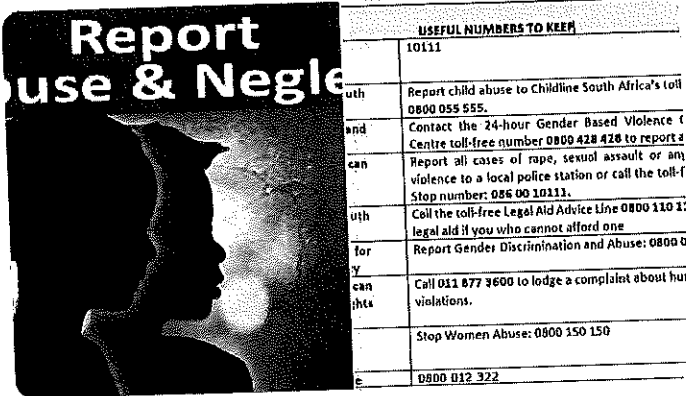
South African Government
@GovernmentZA



Break the silence! Report child abuse. Abuse can come in many forms, make sure you're aware of what to look out for.



@SAoliceService
#16DaysOfActivism
#ActAgainstAbuse



12:11 PM · Dec 10, 2019 · Twitter Web App

3 Retweets 4 Likes



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Black Coffee @RealBlackCoffee · 22h



134 869 14.3K

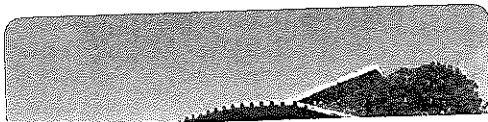


ChrisExcel @ChrisExcel102 · 22h
I have a feeling that Naak Musiq is going to embarrass us

614 719 8,385



Sherene @Dambuza624 · 9h
On my way to see the teacher of my son he said he want to see me.



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Cyril Ramaphosa @CyrilRamaphosa



Silence about gender-based violence is one of the greatest contributing and enabling factors to this crime. All too often, we know our comrade, our friend or our relative is a perpetrator, but we keep silent. Regarding it as a private or family matter.



African National Congress @MYANC pscp.tv Leadership Alliance in conversation on the scourge of violence targeted at women and children #StopGBV #EnoughisEnough

8:41 PM · Jun 22, 2020 · Twitter for iPhone

27 Retweets 9 Quote Tweets 126 Likes



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#NhlanhlaSophaza @Mapentz · Jun 22, 2020 Replying to @CyrilRamaphosa We need to raise men with strong self esteem.

Men without fragile egos. Men who worship the ground women walk on. Men who will know when to walk away. E kojwa e sale metsi. It starts at a young age.



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Cyril Ramaphosa @CyrilRamaphosa President of the African National Congress. President of the Republic of South Africa. Chair of the African Union 2020.

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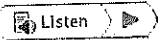
Or call 0860 142 142 between 8am and 8pm on weekdays or leave a message and we'll call back, or WhatsApp the word REGISTER to 0600 123 456. You can also register by dialling *134*832# from any SA network for free.

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Home > Documents > Public Information > B > Break the silence and support 16 Days of Activism!

Break the silence and support 16 Days of Activism!



16 Days of Activism for no violence against women and children

25 November to 10 December 2020



Violence in our society is often the symptom of deeper social problems. Enduring violence and abuse is the reality of many South Africans which together, we can change by standing up, and speaking out, especially for women and children.

The International 16 Days of Activism campaign focuses on generating an increased awareness of the negative impact that violence and abuse has on women and children, and the social fabric of our society. The campaign starts on 25 November and ends on 10 December every year.

Why is this campaign important?

The rights of women and children are fundamental human rights protected by our national Constitution. Gender-based and child violence, in all its different forms, devalues human dignity and the self-worth of the abused person and must be stopped in our society. The campaign can only succeed if we stand together to safeguard our society against this cycle of abuse.



What is abuse?

Abuse is any form of harm which can include when someone is:

- hurting your body physically or sexually,
insulting you, or threatens you with violence,
harassing you sexually,
humiliating and degrading you at home or in public,
controlling how you use your money,
preventing you from getting or keeping a job, or to see friends or relatives,
stalking you, by following you or visits you without your permission,
harming your health or wellbeing, or
monitoring your phone calls and telling you where you can and can't go.

What's the purpose of the campaign?

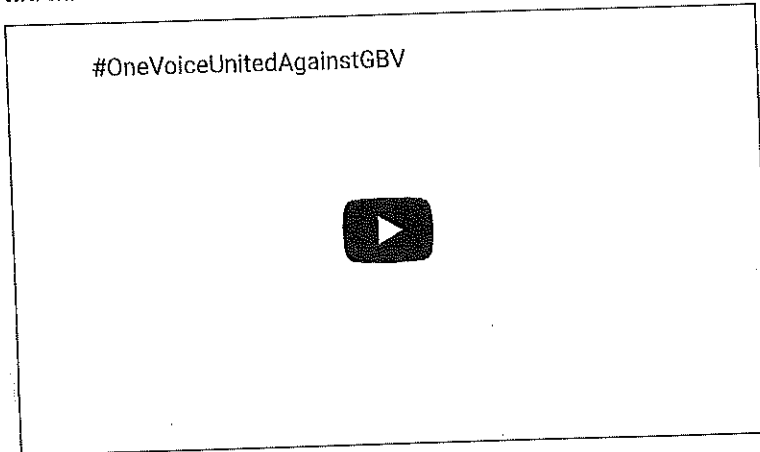
The campaign aims to:

Handwritten signature



- Generate an increased level of awareness among all South Africans about the negative impact of violence and abuse on women and children.
- Stand up to perpetrators of these offences to change their behaviour.
- Enhance and increase partnerships between government, the private sector, civil society, faith-based organisations, and the media to spread the message.
- Raise funds for NGOs that provide invaluable support to the victims and survivors of violence.
- Provide survivors with information on these services and organisations that can help reduce the impact of violence on their lives.
- Engage actively with men and boys in the discourse about combating violence in our homes, our communities and in the workplace.
- Highlight the stories of survivors of gender-based violence and child abuse, and the impact that the campaign has had on their lives.

WATCH: Premier Alan Winde marks the start of 16 Days of Activism for no violence against women and children



Western Cape Government initiatives

The **Western Cape Department of Social Development** has launched its 365 Days of No Violence Against Women and Children campaign, under the banner #ONEVOICE United against Gender-Based Violence.

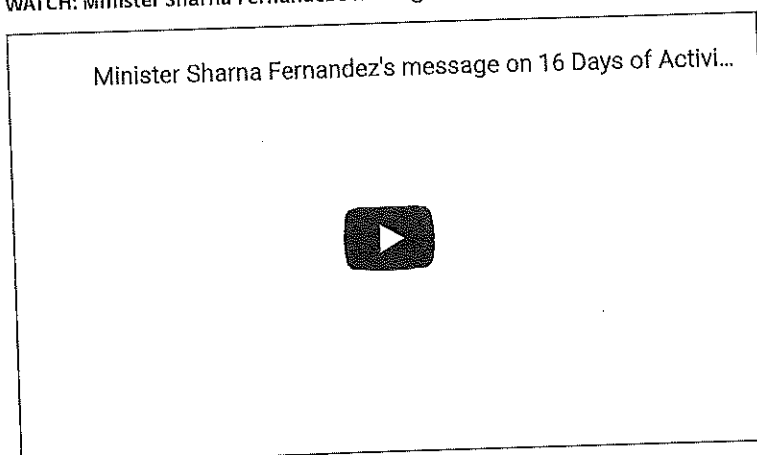
The purpose of the campaign is to share the stories of survivors of gender-based violence, so that those suffering abuse may be encouraged to also use their voice, make the call, and find help.

The **Western Cape Department of Community Safety** encourages you to **stand tall and speak out** during 16 Days of Activism.

Let's make the Western Cape safer and Better Together by:

- **Speaking out against abuse.**
- **Reporting abuse.**
- Knowing what to do in abusive situations - (see guide for victims of domestic abuse)
- Being alert in our communities. If you know of a person or child being abused in your community, please report it. Our Department of Community Safety can provide help and support to communities.

WATCH: Minister Sharna Fernandez's message on 16 Days of Activism



How can I support 16 Days of Activism?

Wear a white ribbon during the 16 days. A white ribbon is a symbol of peace and symbolises your commitment to never commit or condone violence against women and children.

Other ways you can support the campaign:

Volunteer some of your time and energy in support of a non-governmental organisation or community group working in your area to help abused women and children. Use your life skills and knowledge to help support victims of abuse.

<https://www.westerncape.gov.za/general-publication/break-silence-and-support-16-days-activism>

Speak out against women and child abuse.

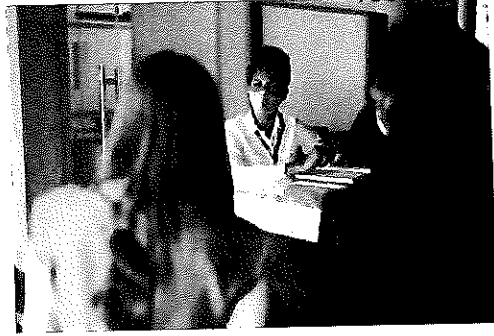
- Encourage silent female victims to talk about abuse and ensure that they get help.
- Report child abuse to the police.
- Encourage children to report bullying to teachers or the school principal.
- Encourage men and boys to talk about abuse and actively discourage abusive behaviour.

Seek help if you're emotionally, physically or sexually abusive to your partner or children.

Encourage and talk to friends, relatives, and colleagues to take a stand against the abuse of women and children.

Spread the message and join the conversation on social media using #NoExcuse

Join your community policing forum (CPF): The community and local police stations are active partners in ensuring local safety and security. The goal of the CPF is to bring about effective crime prevention by launching intelligence-driven crime prevention projects in partnership with local communities. For more information on how to join, contact your local police station.



Where to go for help

You can phone the following organisations to report women and child abuse:

- **Gender Based Violence Command Centre:** Call 0800 428 428 or dial *120*786#
- **Stop Gender Violence helpline:** 0800 150 150
- **Report neglect or abuse of a child:** 0861 4 CHILD (24453)
- **SAPS:** 08600 10111
- **Childline:** 08000 55 555
- Report any abuse of children and women to the Department of Social Development on 0800 220 250.
- Department of Social Development Email: GBV365DAYS@westerncape.gov.za / SD.CustomerCare@westerncape.gov.za
- **LifeLine** 24-hour crisis helpline: 021 461 1111
- Find out more about our **safety services for women and children** by sending an SMS with the word **INFO** to 35 395.
- **Rape Crisis Cape Town Trust** counselling lines:
 - Observatory: 021 447 9762
 - Athlone: 021 633 9229
 - Khayelitsha: 021 361 9085
- If you're a witness and are afraid for your safety for reasons linked to being a witness, you can apply for witness protection. Contact the Witness Protection Unit at the National Prosecuting Authority (NPA) on 012 845 6000.

These shelters can also offer support and assistance.



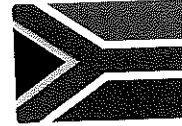
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16 Days of Activism 2021

25 November - 10 December

16 DAYS of Activism for No Violence against Women and Children 2021

The Year of Charlotte Mannya Maxeke: 16 Days of Activism – moving from awareness to accountability

NO TO GEFU

STOP SAFE

NDP

The Future We Want

The 16 Days of Activism for No Violence against Women and Children Campaign (16 Days Campaign) is a United Nations campaign which takes place annually from 25 November (International Day of No Violence against Women) to 10 December (International Human Rights Day). Other key commemorative days during this period include World Aids Day on the 1st December and the International Day for Persons with Disabilities, on 3 December of every year.

The theme for 2021 is "The Year of Charlotte Mannya Maxeke – 16 Days of Activism – moving from awareness to accountability".

Given the scourge of Gender-Based violence in the country, which is declared a national address, government is implementing the Emergency Response Action Plan on Gender-Based Violence and Femicide, which was announced by President Cyril in September 2019.

The 16 Days Campaign forms the centre point of government's comprehensive 365 Days of Activism for No Violence Against Women and Children.

During the 16 Days period, Government together with civil society and the private sector will host a series of community and sector dialogues and activities to foster a collaborative effort in dealing with GBVF.

For communities

a. Be an activist against GBV in your homes, communities, work and positions:

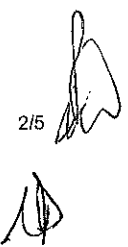
- Challenge cultures and practices that perpetuate gender inequalities and consequent abuse of women and children at personal and societal level.

b. Play your part:

- Reject and report abusers- Act and don't look away!
- Do not protect abusers, report them!
- Sign the Pledge Against Gender-Based Violence. Do not engage in abusive activities and become an abuser- Stop abuse.
- Challenge and denounce cultural practices that perpetuate gender inequalities
- Be sensitive and supportive to GBV victims - share helpful information and support causes near you.
- Seek personal help to change harmful behaviors such as alcohol and substance abuse
- Teach children values of gender equality
- Protect children from exposure to violence and harmful content on internet and social media, including pornography, sexual solicitation
- Develop policies that prevent and deal with gender based violence in your sector, workplace and communities.
- Organise targeted community outreach and dialogues on solution towards a gender equal society.

Together, let us take actions to support the 16 Days of Activism for No Violence Against Women and Children campaign.

Event Category: Commemorative events



NATIONAL PLEDGE

365 DAYS CAMPAIGN TO END GENDER-BASED VIOLENCE

FOR THE LOVE OF OUR COUNTRY, ALL SOUTH AFRICAN MEN
PLEDGE TO
END GENDER-BASED VIOLENCE AND FEMICIDE

As a South African, I recognise that violence against women and children is the manifestation of a profound lack of respect – a failure by us to recognize the inherent equality and dignity of women and children and that it is a violation of their fundamental human rights.

I acknowledge the adverse effects violence has on the country.

I acknowledge the profound psychological and physical trauma violence has on women and children, their families and on communities.

I acknowledge the impact violence has on economic growth, and reducing the quality of life for all.

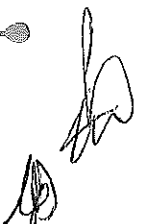
I therefore commit to playing my part in ending Gender-Based Violence, by being a positive role model; a mentor and not allowing any form of violence to take place without doing something about it.

I commit to ensuring safer communities for women.

I commit to building a safer future for our children.

I commit to being part of the change.

I say enough is enough!



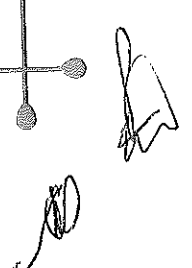
NATIONAL PLEDGE

GUIDELINES TO UTILISE THE NATIONAL PLEDGE ON GBV

365 DAYS CAMPAIGN TO END GENDER-BASED VIOLENCE

**GOVERNMENT CALLS ON SOUTH AFRICAN MEN TO
END GENDER- BASED VIOLENCE**

- By displaying this pledge in your respective organisations it demonstrates your commitment in ending gender-based violence.
- The pledge will be available at www.women.gov.za and www.gov.za
- The pledge will be available in various sizes.
- We encourage South Africans to print this pledge, and make it available in all public places, public transport, places of worship, places of work, places of study, organisations, as well as various events during the 365 Day Behavioural Change Campaign to end Gender-Based Violence.
- The pledge is also available to sign online.
- Be part of the solution by searching #EnoughIsEnough #EndGBV #16DaysOfActivism





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Basic Education launches Breaking the Silence television series, 28 Nov

26 Nov 2021

Department of Basic Education and partners set to launch Breaking the silence television series

The Department of Basic Education and its partners will launch a groundbreaking television series called Breaking the Silence (BTS), on Sunday 28 November 2021. This is a television programme that is set to tackle a whole range of social challenges that affect the education of young people of school going age.

The Department, together with Red Pepper, UNESCO, the SABC and MTV Shuga will unveil the series on Sunday 28 November 2021 at the SABC M1 Studios.

Deputy President David Mabuza is expected to deliver the keynote at the launch.

Breaking the Silence is a 13-part series which has been developed to strengthen the provision of comprehensive sexuality education (CSE) in Life Orientation by educators in the schooling system. Social challenges such as HIV infection, gender-based violence, early unintended pregnancy, drugs and substance abuse are some of the matters to be dealt with in the television programme. Research has cited these as some of the factors that result in learners dropping out of school. The topics are already covered in the curriculum through Life Skills and Life Orientation subjects.

BTS forms an important component in the broader range of activities undertaken by the DBE and its partners to continue to address the growing range of social challenges that have plagued the Basic Education sector and communities across the country. BTS is set to step up public communication around some of the uncomfortable topics relating to Sexuality Education, these include but are not limited to:

– Integration of pregnancy prevention, gender and sexual violence prevention, alcohol and drug use prevention into CSE etc. – Sexual Diversity, Gender Identity, Transactional Sex, Prevention of Teenage Pregnancy and support mechanisms in the schooling system; – Rites of Passage, Sexuality and Stress, Sex & Diseases, Sexuality and Digital Media

The Department of Basic Education wishes to thank the SABC for its commitment to an informed citizenry and for taking the bold step to broadcast BTS on SABC 1.

"This will assist greatly in advancing the work of the department by utilizing the powerful medium of television broadcasting & social media to showcase complex components to protect our children against sexual exploitation and risky behaviour through the delivery of comprehensive sexuality education in the curriculum", added Chief Director for Care and Support in School, Coceka Nogoduka.

In her address at a media briefing on Sunday 29 August, Basic Education Minister Angie Motshekga said the Department would mobilise stakeholders to work together to address the alarming rate of early and unwanted pregnancies among young people of school going age in particular.

Breaking the Silence is one of a myriad of responses from the DBE and its partners to address the various challenges around Comprehensive Sexuality Education, including GBV while also creating a platform to support educators to address pregnancy prevention, gender and gender diversity, alcohol and drug use prevention through their delivery of CSE in the classroom. "SABC1 is really proud to partner with the Department of Basic Education on the new series 'Breaking the Silence'. It is really important for the channel to not only educate our viewers but to also reflect on issues that affect the youth of South Africa. By showcasing the challenges of comprehensive sexuality education as a whole we play an active role in changing the narrative in empowering the youth of today." Acting Channel Head SABC1, Thuli Nhlapo, added.

Enquiries:

Sanki Lerefolo

Cell: 082 836 8703

113
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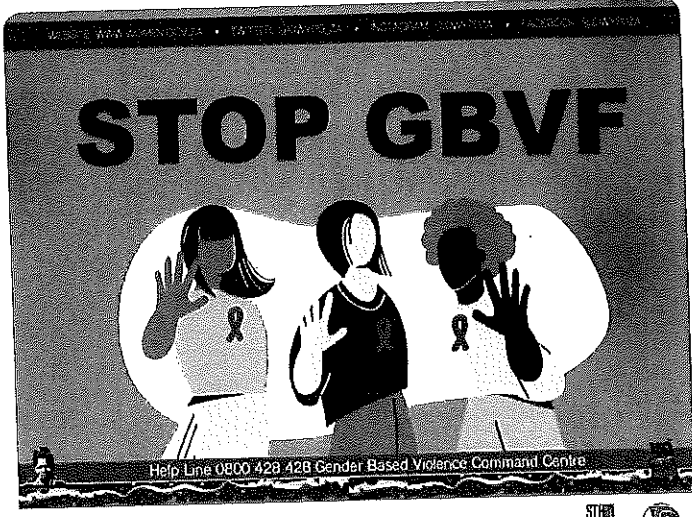
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Report gender-based violence!

Call the 24-hour toll-free number on 0800 428 428 or send a Please Call Me by dialing *120*7867#.

Be an activist against gender-based violence in your home, community and workplace. #StopGBV



4:45 PM · Feb 2, 2022 · TweetDeck

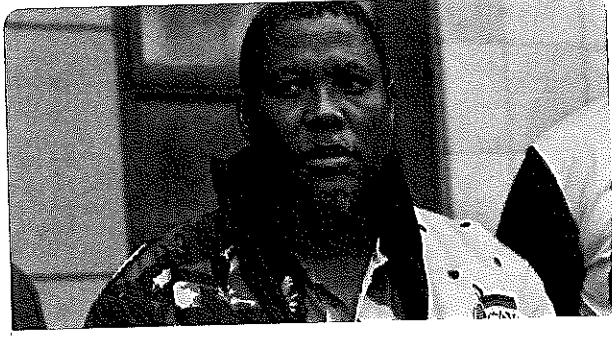
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CAPETIMES NEWS

GOOD party launches 'breaking the silence' campaign against GBV



Patricia de Lille's party Good will be contesting the elections. Picture: Nthlanhla Phillips/African News Agency (ANA)

Published Aug 9, 2022

Written by

Mayibongwe Maqhina

Multimedia Journalist, IOL Politics

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GOOD leader Patricia de Lille on Tuesday called on victims of abuse and those who know of someone being abused not to “shut up, but speak up”.

“If you know a family member who is abusive, don't shut up, speak up. Even if you see your friend's mother or sister being abused, don't shut up, speak up,” De Lille said.

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She made the statement in a prepared speech for the party's launch of its “breaking the silence” campaign against gender-based violence and femicide as part of the commemoration of Woman's Day in Langa.

De Lille said people should no longer keep quiet “to protect” the family name or because it was uncomfortable to speak out.

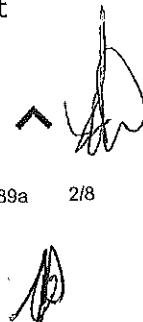
“Those who keep quiet will have the blood of victims on their hands if something happens.”

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She also said women needed to speak up and claim their rights otherwise the rights would simply be “writing on paper”.

“If you stand up and speak up for yourself, you will not only empower yourself, but you can then start helping to empower those around you.”



De Lille said men in communities also needed to speak out if the abuse was to be stopped.

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“Not just the male leaders who need to be at the forefront of this fight, but every single man and boy can play a role; you can make a difference by not shutting up!

“I need to highlight that this means also speaking out when you hear abusive comments or disrespectful jokes, when you receive inappropriate pictures or when you find yourself part of cat-calling ‘among the boys’ on the street.”

However, De Lille said there was a whole range of issues that needed to be addressed if the violence was to be eradicated.

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This included stronger enforcement of laws, increased investment and commitment towards dealing with problems such as DNA backlogs in court cases, the training of law enforcement officers, addressing inequalities and sexism in communities, and ensuring enough support and safe spaces for victims of abuse.

De Lille said elected leaders should lead and must be the first ones to respond to cries and give women a safe place to go where they can escape abuse and save their lives.

“We must remember that many women are mothers and often they have to flee an abusive relationship with their children to ensure that they can protect their children from the abuser.”

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De Lille also urged those who were suffering to walk away from abusive relationships, empower themselves, stop feeling ashamed or scared and go to a place where they can get help before it was too late.

“Not feeling safe in your own space is not normal. Please, let us not shut up, but speak up.”

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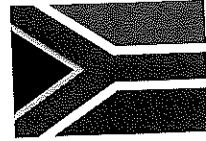
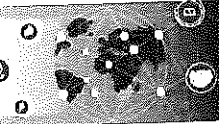


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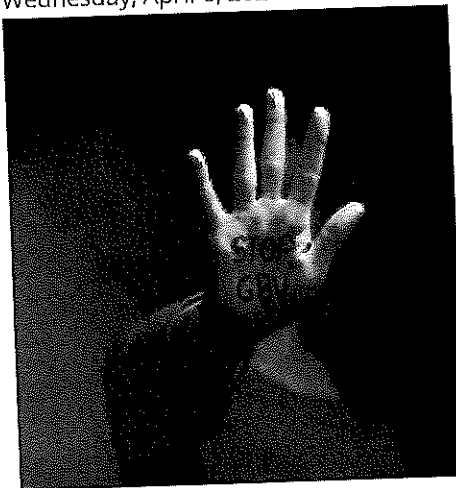


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Come together to end GBV

Wednesday, April 6, 2022



South Africans have been encouraged to come together and collaborate against gender-based violence and femicide (GBVF).

Advocate Praise Kambula has called on every individual residing in the country to take accountability and be agents of change.

Kambula was speaking at a webinar on Wednesday hosted by the Government Communication and Information System

(GCIS) on localising the implementation of the National Strategic Plan (NSP) to end GBVF, which will strengthen the fight against GBV at local level.

She said accountability starts at an individual level "if we are serious about changing the criminal justice system".

The webinar was led by the NSP on GBVF Pillar Conveners and Ambassadors of the 100-Day Challenge currently being piloted as a means to fast-track localisation. The 100-Day Challenge will be launched on 12 April 2022.

The National Strategic Plan is a government and civil society multi-sectoral strategic framework to realise a South Africa free from gender-based violence and femicide.

It recognises all violence against women (across age, location, disability, sexual orientation, sexual and gender identity, nationality and other diversities), as well as violence against children.

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The NSP centres on six pillars, namely accountability, coordination and leadership; prevention and rebuilding social cohesion; justice, safety and protection; response, care, support and healing; economic power, and research and information management.

Kambula is a convenor of pillar three: justice, safety and protection, which sets out to address the systemic challenges that have resulted in an inadequate response to the management of GBVF cases, particularly domestic violence, sexual offences, child homicide, human trafficking, and other related matters.

She said the purpose of this pillar is to open up the criminal justice system and look at all the blockages and issues that exist within the system, which makes the fight ineffective and not have the impact it is expected to have.

"The NSP promotes multisectoral engagements and collaboration towards rooting out this beast from our homes, streets and communities. Pillar 3 ambassadors have already collaborated with social workers and civil society organisation providing psychosocial services. The door is still open for more people to join in and support."

Kambula emphasised that the focus is on ensuring that the country has a criminal justice that is more responsive and collaborative with communities.

"There can be no success in any place without the participation of eyewitnesses who are in communities and the evidence from the victims. We need them in order to have a successful criminal justice system," she said.

Kambula bemoaned the age of GBVF perpetrators, which is "getting younger by the day".

She said while the number of femicide cases has been decreasing, an increase in sex crimes has been recorded, particularly among children.

"In 2020/21, we saw a 22% increase in cases of rape perpetrated by children, and the youngest of those was 10 years old and the oldest was 16 years of age. This is deeply concerning. This has proved that the issues come from the children's families.

"If we want to beat GBVF we need to come up with interventions that will help us to rehabilitate families. There is no child who is born a criminal, it is a learnt behaviour and we as parents we need to do something," she said.

During the same period, Kambula said the country experienced a 60% increase in child pregnancy, and the courts registered an alarming increase in sex crimes of 76.3%.

"There is something we need to do as a country to rectify this. The top three charges that were registered in our courts against children were rape, with an increase of 22%; assault with intent to cause grievous bodily harm at a 16% increase, and the third one being murder at an 8% increase, which was the most shocking and disturbing," Kambula said.

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
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Matssetsebele Tleane, convenor of pillar two: prevention and rebuilding of social cohesion, said this pillar sets out to turn the tide of GBV by focusing on eliminating the social acceptance of all forms of violence against women, children and LGBTQIA+ persons.

"Strategic areas of intervention include achieving strengthened delivery capacity in South Africa to roll out evidence-based prevention programmes, including the development of a comprehensive national prevention strategy."

Tleane said interventions will further include behaviour change and social norms within key groups as a result of the rollout of prevention interventions.


In July last year, the Minister in the Presidency for Women, Youth and Persons with Disabilities (DWYPD), Maite Nkoana-Mashabane, handed over the NSP on GBVF Year 1 Implementation Report 2020/21 to President Cyril Ramaphosa.


The report documents the efforts of government, supported closely by the Multi-Sectoral Collaborative Platform, in realising the outcomes of the National Strategic Plan on GBVF. - SAnews.gov.za

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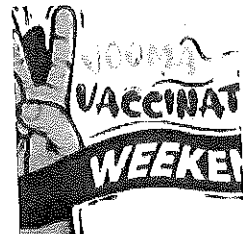
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



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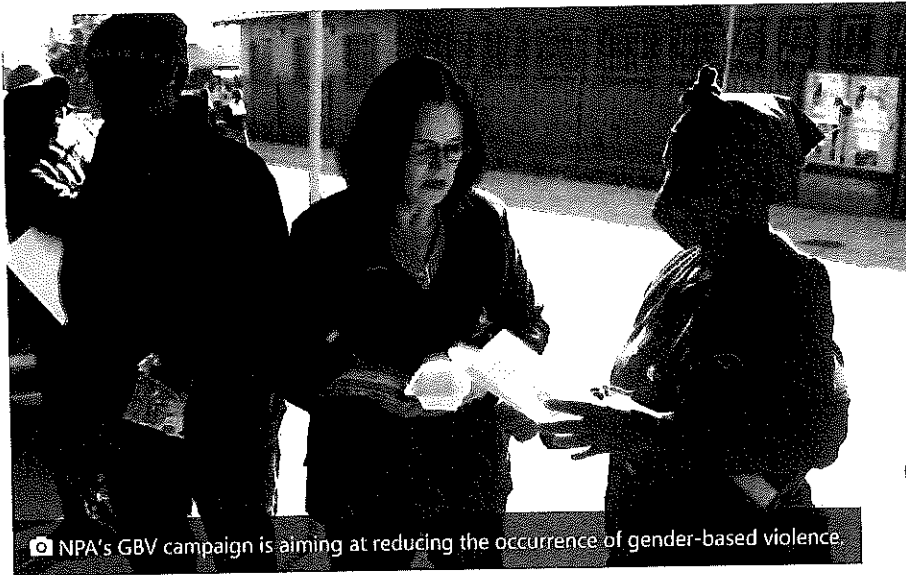
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Local news

GBV victims encouraged to break the silence during campaign

Pamphlets highlighting what gender-based violence is, when to report a case, when to apply for a domestic violence protection order and listing important helpline contact numbers were distributed.

August 18, 2022  Stephen Selaluke  2 minutes read



The only way to stop gender-based violence (GBV) is to report it, the NPA in Mamelodi told victims at an awareness campaign.

The campaign was held outside the Mamelodi West clinic, together with the Thuthuzela care centre and the head of office of the NPA, on Tuesday morning.

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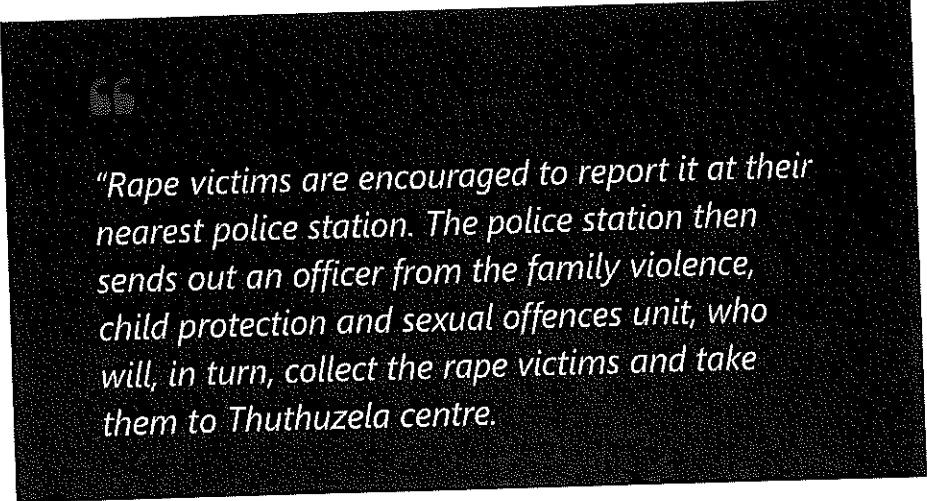
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Advocate Anne-Marie Bendeman, the senior prosecutor at the Mamelodi magistrate's court, said the purpose of the campaign was to invite victims of violence to speak out and report it.

"Pamphlets highlighting what gender-based violence is, when to report a case or apply for a domestic violence protection order and listing important helpline contact numbers were distributed," said Bendeman.

She encouraged the public to make use of Thuthuzela care centre services located at Mamelodi regional hospital.



"Rape victims are encouraged to report it at their nearest police station. The police station then sends out an officer from the family violence, child protection and sexual offences unit, who will, in turn, collect the rape victims and take them to Thuthuzela centre."

"A doctor is allocated to the centre to examine the victim."

She further said it is important for GBV victims to open cases despite the fact perpetrators are often breadwinners.

"Nicro has a programme called Intimate Partner Domestic Violence. It is highly effective and consists of 10 sessions that must be attended by the accused where they educate them on how to control their tempers," she said.

Nicro stands for National Institute for Crime Prevention and the Reintegration of Offenders.

The perpetrators always tell victims not to open cases because they will lose their jobs.

The NPA further appealed to families or the public who are aware of the abuse taking place, to speak out and break the silence.

Food packets were also distributed to the public.

"Prosecutors are available daily at the Mamelodi court to assist with any inquiries relating to GBV, including the abuse of children."

Important helpline numbers:

GBV emergency line: 0800 428 428

Childline: 0800 055 555

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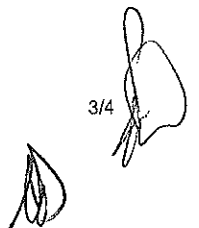
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Anonymity for defendants in rape cases

Currently, people accused of rape can be named and cases involving public figures often attract significant media attention. Parliament has considered the idea of anonymity for those accused of rape on a number of occasions. In the 1970s, it legislated to introduce anonymity for rape complainants and defendants, though the anonymity for rape defendants was later repealed.

The previous Government said in the Coalition Agreement that it would extend anonymity in rape cases to defendants. However, having undertaken an assessment of the evidence, it concluded in 2010 that there was insufficient reliable evidence to justify a change in the law. Despite this, calls for anonymity for those accused of rape have continued.

Inequality?

People who allege they are victims of certain sexual offences receive lifelong anonymity. It is a criminal offence to publish the complainant's identity or any information that might lead to the complainant being identified.

Some argue that it is unfair that potentially innocent defendants do not receive similar protection in the absence of any finding of their guilt. It was partly on this basis that anonymity was provided to defendants as well as complainants in rape cases in 1976.

Parliament repealed anonymity for defendants in rape cases in 1988. This followed a Criminal Law Revision Committee report in 1984 which said that the argument about equality between rape defendants and complainants was not valid "despite its superficial attractiveness".

It is argued that comparison should be made not between a rape defendant and alleged victim, but between a rape defendant and a defendant charged with another serious crime.

If defendant anonymity is to be provided for defendants in cases of rape, why would this not also be appropriate in respect of other, non-sexual, offences?

Why, if the particular nature of rape and sexual offences are a reason for providing special protection to complainants (as opposed to complainants of other, non-sexual crimes), should this particular nature not also be a reason for special protection for those accused of these crimes?

"Mud sticks"?

Those in favour of reform argue that there is a particular stigma attached to allegations of sexual offences, as compared to allegations of other serious crimes, which result in harm to the defendant.

Individuals who have been acquitted of rape have told of the devastating effect on their lives of being named as a defendant in a rape case.

Those who oppose change counter that the public will understand the principle of 'innocent until proven guilty' and the distinction between being accused and being convicted.

But even if the public do recognise this distinction, advocates of reform argue, acquittals tend not to receive as much public attention as the details of the allegations and the trial.

False allegations?



Opponents of reform have questioned whether the call for defendant anonymity in rape cases is linked to what they say is a mistaken belief in high numbers of false accusations of rape. They have said that for defendants to be treated differently in rape cases could imply that rape complainants are less reliable than complainants in other offences.

The Labour Government, during the passage of the Sexual Offences Act 2003, gave as one reason for not changing the law that it avoided giving the impression that there is a presumption of doubt about the credibility of the complainant in sex offence cases.

Open justice?

Some who say that the law should not be changed highlight the importance of open justice. It is said that the current position promotes victim confidence in the criminal justice system and allows justice to be seen to be done. Some worry that anonymity would lead to 'secret charges'.

There are already some protections in place for defendants, such as the rules on crime reporting that restrict what can be reported during a trial.

Naming defendants can also enable, or in some cases encourage, other potential victims and witnesses to come forward to report offences.

One suggested compromise would involve providing generally for the anonymity of defendants in sexual offence cases, with a judge being able to make an exception and name the defendant if this were in the interests of justice, for example to help identify other potential victims.

Debate set to continue

With defendant anonymity in rape cases having been introduced and then repealed, and the previous Government initially planning to change the law and then concluding there was insufficient evidence on which to base a decision, it seems likely that debate will continue.

Since the Sexual Offences (Amendment) Act 1976, people who allege they are victims of rape have been automatically entitled to lifelong anonymity once their complaint has been made.

This has since been extended to certain other sexual offences.

The 1976 Act also provided defendants in rape cases with anonymity, but this was repealed by the Criminal Justice Act 1988.

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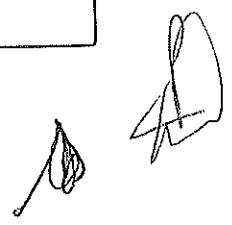
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01 Jul 2016

Naming no names? Anonymity for suspects and complainants in criminal investigations

NEWS & INSIGHTS | HIGHLIGHTS | NICK BARNARD |

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After a lengthy investigation, the Crown Prosecution Service recently announced that Sir Cliff Richard would not face charges relating to historical sexual abuse claims made against him. He and others in similar situations have argued that, save in exceptional cases, anyone facing such allegations should never be named publicly until charged.

The lifelong anonymity granted by law to complainants has also been questioned. This is an emotive subject which requires a careful balancing of the interests of suspects, victims and the media (which has a duty to report matters of public interest).

Suspect anonymity has been much debated. In November 2012 Leveson LJ said in his Report on The Culture Practices and Ethics of the Press that *'It should be made abundantly clear that save in exceptional and clearly identified circumstances (for example, where there may be an immediate risk to the public), the names or identifying details of those who are arrested or suspected of a crime should not be released to the press nor the public.'* A robust recognition of the need to protect suspects' identity from publication by the press, save in exceptional circumstances.

In 2013, the College of Policing published 'Guidance on Relationships with the Media' which dealt with the issue of the police revealing the names of individuals suspected of committing serious crimes. It followed the principle set out by Leveson. The Guidance advocates that *'police forces must balance an individual's right to respect for a private and family life, the rights of publishers to freedom of expression and the rights of defendants to a fair trial. Decisions must be made on a case-by-case basis but, save in clearly identified circumstances, or where legal restrictions apply, the names or identifying details of those who are arrested or suspected of a crime should not be released by police forces to the press or the public.'*

In May, the College of Policing opened a consultation on its proposed Authorised Professional Practice (APP) on Media Relations. Section 4 of the APP recommends that the police will not name those arrested or under investigation, save in exceptional circumstances where a policing purpose applies. It advises that no details that could identify such a person should be released in response to a media enquiry.

The APP cites the example of appealing for victims and witnesses as one matter that could constitute a "policing purpose". It is only intended to guide police decision making and does



not interfere with the media's rights to publish information obtained elsewhere. In Sir Cliff's case, the 'policing purpose' behind the media forewarning of the raid on his home has not been confirmed.

Is the guidance being followed?

Whilst Leveson LJ and the College of Policing both say that suspects should only be named at the pre-charge stage in exceptional circumstances, the reality is different. Suspects are routinely named in the media before any decision has been made to charge them. For example, Regulators, such as the FCA and SFO, release press statements following the arrest of individuals, typically describing only their age and gender. However, even this approach offers no protection that individuals' names will not enter the public domain through another route (see the investigations of Operation Tabernula, FX and Libor where the identities of the suspects were published very quickly).

Presently, individuals being investigated for criminal offences have no right to anonymity. Although they can pursue civil actions for libel if false statements are published about them that harms their reputation, this cannot undo the damage already caused.

A principal argument advanced for naming suspects before charge is that it encourages other victims to come forward and report crimes. This is often cited in sexual offences because it gives victims the confidence to come forward feeling that they will be believed. However, is naming a suspect in the hope that it may encourage others to come forward always a sufficient reason? Given that individuals are named when charged, victims can still come forward at that point.

How then do we ensure that the rights of suspects are fairly balanced with the public interest of naming them? One proposal is to legislate for a complete ban on naming suspects before charge subject to exceptional circumstances. In March 2015 the Commons Home Affairs Select Committee called for a statutory ban on releasing the names of suspects accused of sexual offences that have not yet been charged. However, is it fair to suspects of other crimes that we prioritise those accused of sexual offences? It seems wrong to categorise suspects according to the crime of which they are accused. Individuals are wrongly accused of myriad offences: the personal impact can be equally catastrophic. Being accused of an offence like rape has substantial repercussions. But why should an individual accused of a serious non-sexual and potentially career-ending crime like fraud not receive the same protections?

One thing is certain: the current position is unsatisfactory. Whilst guidance against naming suspects is followed by the police and regulators, there is no control over suspects being named in the press. A strong argument exists for a change in the law to ban the naming of suspects accused of any crime, save in exceptional circumstances. Arguments as to what constitutes "exceptional circumstances" can then be advanced before a judge who can properly balance the competing arguments. This would mean that the naming of pre-charge suspects will be a carefully considered, controlled decision where the press can be held accountable if an individual is named without the court's sanction.

Anonymity of alleged victims

So what of Sir Cliff's accusers? One is reportedly a convicted serial rapist, who has also made allegations against the late Sir Leon Brittan and another serving MP. However, despite

his identity being known, he cannot be identified because the Sexual Offences (Amendment) Act 1992 ('the Act') prohibits it. This protection applies immediately an allegation of a sexual offence is made and remains in place for life, unless the protected person consents otherwise in writing. It may only be removed by a court if the judge is satisfied that the naming of the person is necessary to:

- (i) encourage witnesses to come forward;
- (ii) avoid substantial injustice or prejudice to a person's defence
- (iii) prevent substantial and unreasonable restriction on the reporting of the trial in the public interest.

There is also an exception under S1(4) which provides that the restriction does not apply to the reporting of criminal proceedings, other than those concerning the sexual offence.

Whilst the provisions of the Act usually go unnoticed in protecting vulnerable complainants, when tested they can be controversial. This was recently demonstrated by a case involving a male solicitor (in the spirit of this article, referred to as Mr A) and a female QC.

Is anonymity of victims open to abuse?

Last August, the pair were arrested following a drunken sexual encounter witnessed by members of the public outside Waterloo station. Both were charged with outraging public decency; the QC accepted a caution. However, six weeks later, she reported to the police that she had not consented to sexual activity. This had two consequences.

Firstly, as described under the Act, as an allegation was made that a sexual assault had been committed against her, it became a criminal offence to publish anything likely to lead to her being identified. Simply by making the allegation, she gained immediate lifelong anonymity from being identified as the person cautioned for outraging public decency.

Secondly, Mr A was investigated for sexual assault, in addition to outraging public decency. The former charge was dropped in June, while he accepted a caution for the latter. However, he had by then endured months of public attention, whipped into a minor frenzy over the actions of the QC. A fellow barrister has apparently reported her to the Bar Standards Board, whilst Mr A's solicitor suggested that she be investigated for perverting the course of justice or wasting police time. Such a prosecution would allow her identity to be revealed in reports of proceedings against her. However, the police have advised that there is no such investigation into her actions.

This left the media in a quandary where the inability to publish the identity of a participant becomes a story in itself. The QC became a pariah, with Mr A perceived as a victim, although this newfound victimhood did little to prevent the continued publication of his name.

Some newspapers published articles stating that the woman involved was *not* another high-profile QC about whom rumours abounded. It is of course not an offence to publish the name of a person who has *not* made an allegation of sexual assault. More bizarrely, this left newspapers free to publish the rumoured name if they had believed it to be true, as that

person had not in fact made a criminal complaint of any kind (although of course such action would be wide open to a defamation claim).

The Sun published a pixellated photograph alongside its article asserting who the QC was *not*. The Sun's former editor, David Dinsmore, was convicted in March 2016 for publishing a photograph of former England footballer Adam Johnson's teenage victim. Although that photograph was heavily altered, it could apparently be identified by those who had seen the original Facebook photograph from which it had been taken. This, Chief Magistrate Howard Riddle concluded, was likely to lead members of the public to identify her as Mr Johnson's victim.

Press freedom and legal certainty

Mr Dinsmore's conviction raises questions about whether the provisions of the Act are sufficiently certain to give the media (including editors, who are specifically liable under the Act) sufficient freedom to report on matters of public interest without fear of prosecution, remembering that such freedom requires some degree of certainty as to what is prohibited by law.

On first reading, 'likely to lead members of the public to identify' appears to be a relatively straightforward definition. However, when tested by facts, it becomes more complicated. For example:

- i) Does 'likely to lead' assume any particular foreknowledge or level of astuteness on the part of the reader?
- ii) Does 'members of the public' include those with prior knowledge of the complainant, or does it envisage a random sample?
- iii) Does 'identifying' include an acutely curious reader using the information as a springboard for further research?
- iv) How certain does the identifier have to be of the victim's identity? Is a mere suspicion sufficient?

The conservative view might be that this is for the best. Is there any need to publish photographs, or any personal details, of sexual offence complainants? Perhaps, but there is a counter-argument: if it is Parliament's opinion that no photographs of complainants should ever be published, then this should be made clear in the legislation.

There is no public interest or 'reasonable steps' defence under the Act. Save for publishers or editors who can prove that they were unaware that 'the publication included the matter in question' it is strict liability. Consequently, the media must tread the unenviable path of deciding whether to publish and risk prosecution, or desist and therefore compromise their reporting on matters of public interest. Where the risk of 'jigsaw identification' (meaning combined individual pieces of information from different sources combining to result in an identification) arises, the problem is even more acute. Editors and legal teams must monitor what others have or may yet publish, while taking responsibility for their own output.

This contrasts with the Judicial College guidance on reporting restrictions (updated in May 2016) which repeatedly stresses the importance of justice being administered in public and that any restriction on the freedom to report should only be a last resort.

Such a binary approach would be acceptable if it guaranteed the complainants' anonymity, but even this ends up being confused. In particular, there is a frustrating lacuna in the pseudo-presumption of *R (Press Association) v Cambridge Crown Court* [2012] EWCA Crim 2434 that the Act does not protect a defendant's identity, even where it is so closely linked to the complainant that identification of one will mean the identification of the other. Furthermore, a court has no jurisdiction under the Act to order that the defendant's identity should not be published in order to prevent identification of the complainant.

A journalist in this situation would have to consider potential prosecution under the Act. But this is little comfort to the (presumed innocent) defendant who not only has his or her own liberty to consider, but also whether a close person will be identified as a result of the proceedings. Although the Judicial College guidance makes clear that open justice is a priority, and restrictions should only apply where absolutely necessary and be proportionate, this cannot be right when it directly contradicts the intentions of an Act of Parliament.

Whilst one cannot condone the identification of sexual offence complainants, the Waterloo case raises questions about whether the law on identification of those involved in sexual offences could be more carefully considered. If (as the Judicial College guidance states), the media can be trusted to walk the line, then a public interest and/or reasonable steps defence would surely not result in a rash of irresponsible unmaskings. However, it would at least give the media a fighting chance to justify itself when taking risks in the public interest.

Would a private prosecution provide a remedy?

One unfortunate consequence of the law's inflexibility is that Mr A may feel morally entitled to pursue a private prosecution (becoming increasingly popular) against the QC for perverting the course of justice. Interestingly, he would not have to obtain the consent of the Director of Public Prosecution to do so (as demonstrated in the tragic case of Eleanor de Freitas who committed suicide after being privately prosecuted for a false rape allegation). If a prosecution were successfully commenced, it would allow the identification of the QC during her trial. However, if she were subsequently found not guilty, it would not be possible to put that particular cat back in the bag. Surely, the worst of all worlds.

Ultimately, if the law cannot be improved upon, then one allegation of playing the system (which may be a genuine complaint), or journalists and newspapers occasionally enduring prosecution, should not be allowed to undermine a system intended to protect the vulnerable, and which generally succeeds. However, it is a rare case where the law genuinely cannot be improved upon: simply because something is difficult is no justification for avoiding reform.

Should we legislate for a complete ban on naming suspects and alleged victims?

The identification of both suspects and victims in criminal proceedings requires delicate handling. The decision to drop the investigation into Sir Cliff and before him, Lord Bramall, as well as the Waterloo case, reignites this debate, placing the approach to the naming of pre-charge suspects and their accusers back in the spotlight. Where suspects are concerned, it is clear that controls on the way in which they are named are necessary to protect the rights of

these individuals for which no charging decision has yet been made (and may never be). The most effective way to do this is to legislate for a complete ban on naming suspects without the Court's approval.

With regards to naming complainants, the law is caught halfway. If it is Parliament's intention that no identifying details (no matter how obscure) should be published, the law should say so. However, if it is recognised that in a small minority of cases, it is in the public interest for (potentially) identifying details to be published, and that the media need to be given the freedom to make mistakes, then this also needs to be built into the legislation.



NICK BARNARD

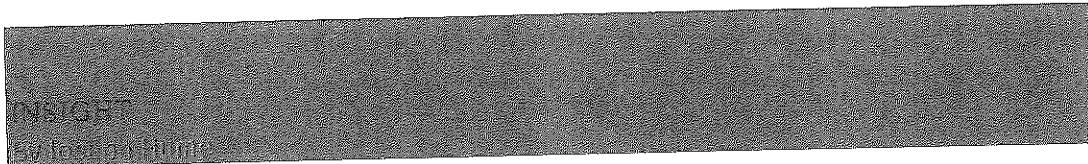
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3.4 Sealing Orders and Publication Bans

Public Prosecution Service of Canada Deskbook

Guideline of the Director Issued under Section 3(3)(c) of the *Director of Public Prosecutions Act*

March 1, 2014

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1. Introduction

The “open court principle” establishes a presumption of public access to court proceedings and court records, and has been described as a “hallmark of a democratic society”.¹ One aspect of the open court principle, freedom of the press, is a constitutional right under [s. \(section\) 2\(b\) of the Canadian Charter of Rights and Freedoms](#) (Charter). Any restriction on the open court principle must be based on equally sound principles and values accepted in our democracy.

Displacing the open court principle in order to prevent or restrict access to court documents and court proceedings requires a balancing against the countervailing interests. The purpose of this guideline is to identify occasions where this balancing is required and the applicable considerations.

Among the interests which may be taken into account are the need to protect an ongoing covert police investigation, the need to protect informer privilege, and the need to protect the privacy rights of persons affected by the court proceeding in question.

In some areas Parliament has already determined the balance, for example, with respect to wiretap packets, where sealing of the packet is statutorily required, or with respect to proceedings under the *Youth Criminal Justice Act*,² where publication of the accused's identity is actually a criminal offence. In other areas the balancing must be done case by case, for example, with respect to a ban on the publication of a complainant's or witness's identity under s. (section) 486.5 of the *Criminal Code* (Code), where the court must determine the balance by reference to enumerated criteria.

2. Sealing Orders for Material Filed in Support of *Ex Parte* Judicial Authorizations

In the case of court materials filed in support of *ex parte* judicial authorizations such as search warrants, production orders and wiretap authorizations, the presumption of public access applies. However, common law authority and statutory rules exist which may either require or permit sealing of the material in question.

As well, there is a common law rule that the material filed in support of a search warrant or similar judicial authorization should remain sealed from public view until the warrant or order is executed and the police make a "report to justice".³ Where a search has been executed but nothing has been seized, the common law also establishes that only affected persons may have access to the material in question.⁴

It should be understood that when a sealing order is made, or automatic sealing is required as discussed in the next section in the case of wiretap materials, this does not restrict the ability of law enforcement officials to continue to use and share as necessary the content of the information subject to sealing. The sealing order – or automatic sealing – applies to the actual documents in question and not to the information, which may exist in another form as work product.

2.1. Mandatory sealing of documents supporting a wiretap authorization

Section 187 of the Code mandates that all documents relating to an application under Part VI (Vérification interne) (which generally deals with wiretaps) must be sealed and kept by the court in a place with no public access, subject only to further order of a court. A specific sealing order is therefore not required.

However where a wiretap authorization includes judicial authority for other investigative measures (for example a general warrant or an assistance order) wiretap agents normally should draft the proposed authorization to include a sealing order covering those aspects of the material.

Opening a sealed wiretap packet for the purposes of making *Stinchcombe* disclosure is discussed below.

2.2. Discretionary sealing in other cases of ex parte judicial authorization

Section 487.3 of the Code gives the issuing justice authority to order the sealing of material filed in support of an *ex parte* application for a warrant under the *Criminal Code* or any other federal statute, a production order under ss. (sections) 487.012 or 487.013 of the Code, or a *Feeney* warrant under s. (section) 529 of the Code. Sealing is not automatic. The application for the sealing order will usually be made by the peace officer applying for the warrant or order, at the same time, and can be granted on the grounds set out in s. (section) 487.3 of the Code.

The peace officer applying for the warrant or production order in question is therefore expected to provide affidavit material that details how and why one or more of the grounds mentioned in s. (section) 487.3(2) justifies a sealing order. The most common grounds will be: to protect an ongoing police investigation; and to protect informer privilege.

Where the peace officer has neglected to obtain a needed sealing order at the time the warrant was issued, or later decides that a sealing order should now be sought, s. (section) 487.3 is still available as the section specifically says that the sealing order may be granted by the provincial court judge or justice "on application made at the time of issuing a warrant [or other order]...or at any time thereafter". In such a case, Crown counsel may be consulted to assist in the application.

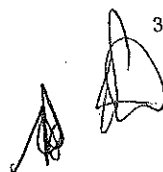
Different courts across Canada have different procedures in place to handle sealing orders. In every case, however, the sealing order should result in the material being kept in a secure location not subject to public access.

In some jurisdictions the issuing justices grant sealing orders for a limited time, for example one year from the date of issuance. This is to be discouraged, as if the grounds for sealing are to protect informer privilege, it may never be safe to unseal the original unvetted material. Crown counsel are encouraged to advise their enforcement agencies to seek sealing orders of unlimited duration.

Procedures for unsealing warrant materials are discussed below.

2.3. Common law authority to seal in other cases of ex parte judicial authorization

Section 487.3 of the Code specifically applies to warrants and the orders mentioned in the section. There are other *ex parte* proceedings not specifically mentioned, and here the court's inherent jurisdiction (in the case of the superior court) or its ability to control its own process (in the case of a



statutory court such as the provincial court) can be engaged.

For example, s. (section) 462.48 of the Code allows for an *ex parte* application by the Crown for an order to obtain tax information in certain cases related to proceeds of crime, money laundering, organized crime, and terrorism. This type of application is usually brought early in the stages of the criminal investigation and is therefore sensitive. A sealing order for the supporting material will invariably be desired in order to protect both the ongoing investigation and the identity of confidential informers. As this particular application is brought *ex parte* before a judge of the superior court, the inherent jurisdiction of the superior court can be relied upon for the issuance of a sealing order, as the *Criminal Code* is silent on the point. The grounds for the sealing order will no doubt parallel those set out in s. (section) 487.3, discussed above. Again, it is important that the Crown be able to overcome the presumption of public access under the open court principle.

2.4. Unsealing for disclosure purposes: procedure and policy

In the case of wiretap packets, ss. (sections) 187(1.3) and (1.4) of the Code authorize a provincial or superior court judge to order that the packet be unsealed for the purposes of copying and examination. The section goes on to provide that the Crown has the right to edit the packet materials to protect informer privilege, ongoing investigations, sensitive police techniques, and the interests of innocent persons: ss. (sections) 187(2) – (4). The section goes on to require the original material to be resealed: s. (section) 187(6).

With respect to informations to obtain search warrants and other orders, s. (section) 487.3(4) of the Code contemplates that the issuing justice, or a judge of the court before which resulting criminal proceedings are underway, may vary the sealing order issued under s. (section) 487.3 as discussed above.

Section 187(1.4) of the Code in relation to the sealed wiretap packet assumes that trial proceedings are underway and that the accused has applied to obtain a (vetted) copy of the affidavit material.

Section 487.3(4) is less restrictive. Modern practice, largely in view of the Crown's obligation to make disclosure pursuant to *Stinchcombe*, now usually means that Crown counsel will initiate the unsealing application at the appropriate time, i.e. (id est) when the material can safely be vetted and disclosed to the defence.

Unsealing applications can usually be made by Crown counsel *ex parte*, on the ground that unsealing the material for the purpose of making *Stinchcombe* disclosure is in the interests of the accused. Proceeding *ex parte* also gives Crown counsel appropriate control of the application. On the other hand, forcing the accused to bring the application puts the accused in control of the timing and manner of the proceeding and may increase the risk of disclosing sensitive information such as informer privilege or ongoing investigations. This is a particular risk in smaller jurisdictions where court staff may not be familiar with the requirements that the Crown be notified of an application to unseal and be given an opportunity to vet the copied material before it is disclosed, or that the original unvetted material must be resealed.

As a matter of policy, therefore, Crown counsel in an individual case has the discretion to determine when to bring an application to unseal the material filed in support of a wiretap Authorization, search warrant, or other order. In exercising this discretion, and determining whether and when to bring an unsealing application, Crown counsel should consider:

- a. the interests and views of the investigating authority, particularly in respect of the sensitivity of information that may tend to identify a confidential informer or compromise an ongoing investigation;
- b. the timing of the application: there may be a tension between the need to make *Stinchcombe* disclosure and the sensitivity of information, which sensitivity may attenuate as time passes; and
- c. the stage of the proceedings: for example, on the eve of trial, the accused may force an adjournment if he or she has not received disclosure of sealed material filed in support of a judicial authorization (a wiretap Affidavit, or information to obtain); equally, the accused may decline to make election or plea until sealed material is unsealed, vetted, and disclosed.

As to the last item, the stage of the proceedings, once a matter is set down for preliminary inquiry or trial, Crown counsel should promptly initiate unsealing in order to avert last-minute adjournments.

3. Publication Bans

3.1. Introduction

As discussed above, the open court principle presumes public access to all court proceedings, and freedom of the press – *i.e. (id est)*, the media's right to publish details of court proceedings – is also engaged. However countervailing interests may justify restrictions on the publication of court proceedings in their entirety or in part.

As with sealing orders, publication bans require a balancing of the open court principle against the countervailing interests. In some cases Parliament has already established the balance – for example statutorily requiring a ban on publication of evidence taken at a judicial interim release hearing, or making it a criminal offence to publish the name of the accused in proceedings under the YCJA (Youth Criminal Justice Act) – while in other cases the presiding judge must make a case-by-case analysis – for example a ban on publishing the identity of a juror in certain circumstances.

3.2. Requirement to notify the media

Unless the publication ban is mandatory, as discussed below, Crown counsel must advise the court if necessary of the common law rule that the media must be notified before any publication ban is ordered: *Dagenais v C.B.C.*, [1994] 3 SCR (Supreme Court Rules) 835. This is because any publication ban interferes with the constitutionally protected right to freedom of expression under s. (section) 2(b) of the Charter.

In some jurisdictions the courts and/or media have arranged for a procedure where notice of application for a publication ban may be given to a central clearing house. ⁵

3.3. Mandatory publication bans

The *Criminal Code* and the YCJA (Youth Criminal Justice Act) provide for mandatory publication bans in several areas:

- Criminal Code:
 - s. (section) 276.3(1) – ban on publication of proceedings on application by accused to cross-examine regarding complainant's sexual activity under s. (section) 276.1 – automatic;
 - s. (section) 486.4(2) – ban on publication of the identity of complainant or child witness in sexual offence cases, upon application of the prosecutor, complainant or witness – mandatory;
 - s. (section) 486.4(3) – ban on publication of the identity of a witness under 18 years of age or of any person who is the subject of child pornography, in offences relating to child pornography under s. (section) 163.1, upon application of the prosecutor, complainant or witness – mandatory;
 - s. (section) 517 – ban on publication of evidence, information, submissions and judicial reasons at judicial interim release hearing – mandatory if the accused requests a ban, and discretionary if the prosecutor requests it;
 - s. (section) 539(1)(b) – ban on publication of evidence taken at preliminary inquiry – mandatory if the accused requests a ban, and discretionary if the prosecutor requests it;
 - s. (section) 542(2) – ban on publication of the fact of or details of any confession tendered at a preliminary inquiry – automatic;
 - s. (section) 648 – ban on publication of any proceedings in the absence of the jury – automatic.
- Youth Criminal Justice Act:

The YCJA (Youth Criminal Justice Act) automatically imposes a ban on the publication of, for example, the identity of a young person (s. (section) 110(1)), so neither the court nor Crown counsel need to do anything for the publication ban to be in place. There are provisions allowing for the youth court to lift such statutory publication bans. See, for example, s. (section) 110(4) which deals with a peace officer's application to allow publication of the identity of a young person who is accused of an indictable offence and who poses a danger to others, where publication of the young person's identity is necessary to assist in his or her apprehension. Section 110(6) allows a young person to apply for relief from the statutory ban on publication of his or her identity, if the youth court is satisfied publication would not be contrary to the interests of the young person or the public interest.

Section 75(2) requires a youth court, upon imposing a sentence on a young person for a violent offence, to consider lifting the ban on publication of the young person's identity, where this is necessary to protect the public from further violent offences by the young person.

As a matter of policy, when there is an automatic, mandatory publication ban (for example publication of proceedings in the absence of the jury, as in s. (section) 648 of the Code, or publication of the identity of a young person as in s. (section) 110 of the YCJA (Youth Criminal Justice Act)), Crown counsel need not take any steps since it is the operation of statute that automatically mandates the ban on publication. Where a publication ban only results from a positive order of the court, however, Crown counsel should be aware of those instances. Where a mandatory publication ban is triggered upon application of the defence (for example ban on publication of proceedings at show cause hearing or preliminary inquiry), Crown counsel need not take any steps if the accused is represented by counsel. In the case of a self-represented accused, however, it is appropriate for Crown counsel to remind the court that there is such a provision so that the court can discharge its duty to assist the self-represented accused in this regard. As well, Crown counsel should ensure in a prosecution for an offence listed in s. (section) 486(1)(a) or (b) of the Code – basically, most sexual offences – that the court is aware of its obligation to inform any witness under the age of 18 years and any complainant of his or her right to apply for a publication ban, which ban is automatic upon application by the young witness or complainant, or by the prosecutor.

3.4. Discretionary publication bans

There are also provisions for discretionary publication bans in many instances under the *Criminal Code*:

- s. (section) 486.5(1) – ban on publication of the identity of any victim or witness, not already covered by the mandatory publication ban in s. (section) 486.4, upon application of the prosecutor, victim or witness, if the ban is “necessary for the proper administration of justice” – discretionary;
- s. (section) 486.5(2) – ban on publication of the identity of any “justice system participant” as defined in s. (section) 2, in any prosecution for an offence listed in s. (section) 486.2(5), i.e. (id est) intimidation of a justice system participant, offences related to criminal organizations, terrorism offences, and offences related to the *Security of Information Act*,⁶ upon application of the prosecutor or a justice system participant, if the ban is “necessary for the proper administration of justice” – discretionary;
- s. (section) 631(6) – ban on publication of the identity of a juror, upon application of the prosecutor or on the court’s own motion, if the ban is “necessary for the proper administration of justice” – discretionary.

As a matter of policy, when a discretionary publication ban is in issue, Crown counsel should ensure that persons affected by the proposed ban have been given proper notice of the application. Concerning the media, see the discussion above about the need to ensure the media is notified as per *Dagenais*. Crown counsel also has an obligation to ensure that victims and witnesses are properly notified and advised of their right to make application for a publication ban, usually by informing the presiding judge of this right. If affected persons have been given proper notice, Crown counsel’s position on whether a discretionary publication ban should be imposed is governed by

Crown counsel's general duty to protect the public interest. Crown counsel will normally be initiating or supporting the application for a discretionary ban on publication, and should be able to address the public interest considerations in his or her submissions to the court.

3.5. Common law publication bans

The superior courts have inherent jurisdiction to impose publication bans, and arguably the provincial courts have the same jurisdiction when exercising the authority to control their own process.⁷ Such publication bans are discretionary. In *Mentuck*, the Supreme Court of Canada propounded the test for a common law publication ban as follows:

A publication ban should only be ordered when:

- a. such an order is necessary in order to prevent a serious risk to the proper administration of justice because reasonably alternative measures will not prevent the risk; and
- b. the salutary effects of the publication ban outweigh the deleterious effects on the rights and interests of the parties and the public, including the effects on the right to free expression, the right of the accused to a fair and public trial, and the efficacy of the administration of justice.⁸

With respect to the first branch of the test, the "serious risk" must be real, substantial, and well grounded in the evidence. As Iacobucci J put it: "it is a serious danger sought to be avoided that is required, not a substantial benefit or advantage to the administration of justice sought to be obtained".⁹ The second branch of the test requires a balancing of interests, including constitutional protections for the accused and the press.

As a matter of policy, Crown counsel should ensure that affected parties (including the media) are notified of the proposed discretionary ban on publication, and be prepared to speak to the public interest considerations which are engaged. These include:

- the right of an accused to a fair and public hearing – s. (section) 11(d) of the Charter;
- freedom of expression – s. (section) 2(b) of the Charter;
- the privacy interests of witnesses and other third parties; and
- the integrity of the administration of justice, including the ability of the police to conduct an investigation without being compromised by publicity, with particular reference to the "serious risk" sought to be avoided by the proposed publication ban.

3.6. Appeal from a publication ban

There is no statutory right to appeal from a publication ban. Any such appeal must therefore fall within s. (section) 40(1) of the Supreme Court Act,¹⁰ *i.e. (id est)*, pursuant to an application for leave to appeal from the order directing a publication ban.¹¹

Footnotes

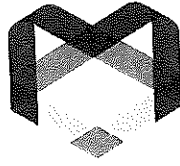
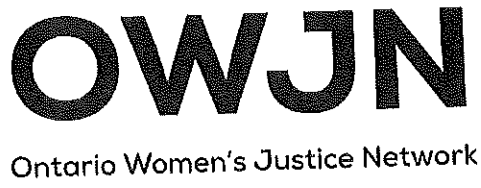
- 1 Vancouver Sun (Re), 2004 SCC (Supreme Court of Canada), [2004] 2 SCR (Supreme Court Rules) 332 at para 23. See also: A.B. v Bragg Communications Inc, 2012 SCC (Supreme Court of Canada) 46, [2012] 2 SCR (Supreme Court Rules) 567 at para 11.
- 2 SC (Security Committee) 2002, c 1.
- 3 A.G. (Attorney General) (Nova Scotia) v MacIntyre, [1982] 1 SCR (Supreme Court Rules) 175.
- 4 Ibid; Michaud v Québec (A.G. (Attorney General)), [1996] 3 SCR (Supreme Court Rules) 3.
- 5 See e.g. (exempli gratia) :
- British Columbia, Publication Ban Notification Project – Expansion to New Westminster.
 - North West Territories Supreme Court, Practice Direction, « Publication Bans », July 9, 2004.
 - Alberta, E-File Notice of Application for Publication Ban.
 - Saskatchewan, Discretionary Publication Ban Application.
 - Nova Scotia, Notice of Applications for Publication bans service.
- 6 RSC (Revised Statutes of Canada) 1985, c O-5.
- 7 R v Cunningham, 2010 SCC (Supreme Court of Canada) 10.
- 8 R v Mentuck, 2001 SCC (Supreme Court of Canada) 76 at para 32, per Iacobucci J. See also Toronto Star Newspapers v Ontario, 2005 SCC (Supreme Court of Canada) 41.
- 9 Mentuck, *ibid* at para 34.
- 10 RSC (Revised Statutes of Canada) 1985, c S-26.
- 11 Dagenais v Canadian Broadcasting Corp., [1994] 3 SCR (Supreme Court Rules) 835; R v Adams, [1995] 4 SCR (Supreme Court Rules) 707; Mentuck, *supra* note 8.

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- Abuse

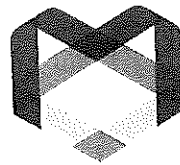
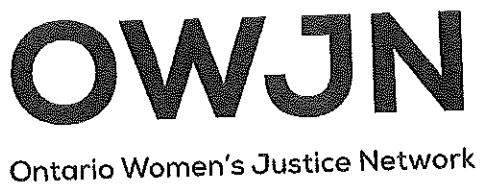
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- Stay Safe

- Lawyers & Courts

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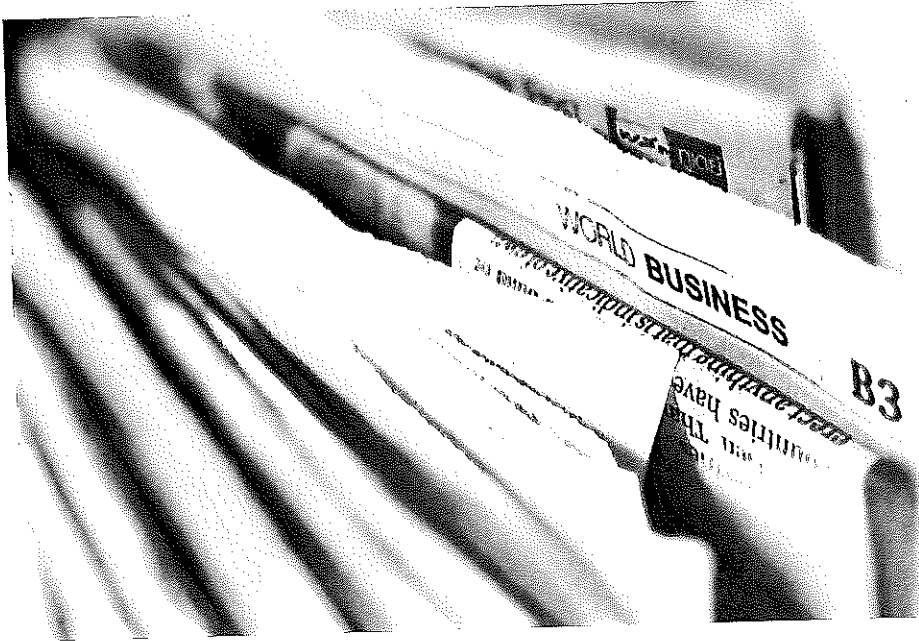


METRAC
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Guide to Publication Bans in Sexual Assault Cases



This article explains what a Publication Ban is and discusses how and why they are used in sexual assault cases. **Sexual Assault** can be any unwanted sexual touching or sexual activity done intentionally without your permission (consent). It can include attempts and threats of unwanted sexual contact.

Note: Throughout this article, we use the term "victim" of a crime because that is the language of the *Criminal Code*. Otherwise, OWJN uses the term "survivor" to respect the resilience, dignity and agency of those who have survived sexual assault.

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What is a publication ban?

A Publication Ban is a Court Order that prevents anyone from publishing or making public specific information in a legal case. Publication bans are often used to protect a victim or witness' identity in criminal cases. They are used to protect the identity of youth under 18 years old in many different kinds of legal proceedings. Publication bans are also used to protect sensitive evidence in a case, information that could create a security risk or information that could put a police officer, juror or police informant's life in danger.¹

In a sexual assault case, a publication ban means that it is an offence to publish, broadcast or send any information that could identify the victim or witness in the case, even if they give their permission to do so.²

When can a Court order a publication ban?

In general, court proceedings and court records are open to the public, including names of all witnesses, victims and accused persons. Having an "Open Court" allows Canadians to know what is happening and have confidence that the justice system is working fairly. The principle of openness also respects the constitutional right to a free press.³

However, there are exceptions. Courts can order publication bans to protect the identity of a victim, witness or other person participating in the justice system. A publication ban may be used to:

- encourage witnesses who are afraid to testify;
- protect vulnerable witnesses, including children and victims of crime;
- encourage victims and others to report offences that are usually under-reported, such as sexual offences (see more info below); and
- protect the privacy of other justice system participants.

How does the Court decide whether to order a publication ban?

The *Criminal Code* sets out rules for publication bans used in criminal law cases. The rules depend on the type of case and who is asking for the ban. For example, in cases dealing with sexual offences, including sexual assault, the Court must tell a sexual assault victim, or a witness who is under 18 years old, about their right to have a publication ban. If the victim, witness or Crown lawyer asks for the ban, the judge **must** order it.⁴

In any other criminal case where there is a victim who is under 18 years old, a judge must tell them of their right to ask for a publication ban. If the victim, or Crown lawyer asks for the ban, the judge **must** order it in these cases as well.⁵

In other cases, you have to ask for a publication ban and show the Court why it is needed (see below for more information). The Court can order the ban if it believes that a publication ban is important for the justice system to work well and reach a fair result.

When deciding whether to order a publication ban, the judge is supposed to consider many factors, including:

- the right of an accused to a fair and public hearing;
- whether there is a real and serious risk of harm to a justice system participant if their identity is exposed;



- whether the ban is necessary for security or to protect a victim or witness from possible intimidation or revenge;
- society's interest in encouraging people to report crimes;
- if there are other options available to protect the identity of the witness or victim;
- the impact on freedom of expression.

What is the process to request a publication ban?

You can request a publication ban by making an Application to the Court that explains why you think the ban is necessary and what information you are asking to protect. Publication bans are only granted when they are believed to be necessary to make sure there is a fair result in a legal case. The Court decides whether the good done by keeping an identity or specific information private from the public is more important than the potential harm of blocking the public and media from accessing all the information in a case.

If you request a publication ban:

- You have to tell the other parties involved in the case that you are asking for a publication ban.
- The judge may choose to hold a hearing where all parties, including the victim/witness, Crown, accused and the media, have a chance to explain to the Court why there should or should not be a publication ban in place.⁷

How long does a publication ban last?

The length of time and information covered by a publication ban will be different for each case, depending on the situation and the stage of the court proceedings. Some bans can last indefinitely (forever), like those used in sexual assault cases to protect a victim's identity. Publication bans used in other types of cases may be temporary and last only until the accused person is released from police custody, or until the trial is finished.⁸

Can I remove a publication ban?

To remove a publication ban, you have to make an Application to the Court. An Application is when you put together documents that explain what you want the Court to do and why. To remove a publication ban, your Application has to explain either why there never should have been a publication ban in the first place, or why the ban is no longer necessary if your circumstances changed.⁹ The victim or witness seeking to remove the publication ban usually needs to discuss their request with the Crown lawyer and have the Crown ask the Judge in the case.¹⁰

Although the purpose of publication bans in sexual assault cases are to protect a survivor's privacy, some survivors want their names to be known. A survivor may request that a publication ban be lifted because they want to raise awareness about their case or about sexual assault in our society, or to regain some power that was taken from them in the assault. There are many reasons why a person may want to have their name known, which are unique to the individual and their situation.

Why are publication bans mandatory in sexual assault cases?

Parliament has recognized that there are some cases, such as sexual offences, where an individual's privacy and a person's safety are more important than the public's right to access all of the details in a court proceeding. By protecting the identity of the sexual assault survivors, publication bans try to encourage people to come forward about assaults, and seek help.

Sexual assault is a highly gendered crime, with as high as 86% of people attacked identifying as female.¹¹ Sexual violence is also one of the most under reported crimes; it is documented that as many as 90% of victims of sexual assault do not report their assaults to the police.¹² This number is likely higher for women who experience stigma because of their sexual orientation, gender identity, race, mental or physical differences and disabilities, or immigration and refugee status, among other factors.

Often women do not report sexual violence because they fear negative assumptions will be made about their past sexual history, that they will not be believed or will be blamed for their own attack because of how they dressed, or how they acted or didn't act.

These and other damaging stereotypes about how survivors of sexual violence should behave have led to silencing and shaming survivors rather than encouraging them to get help.

In this context, having their name publicized in reference to a sexual assault can further discourage survivors from coming forward. Privacy and confidentiality are critical for many sexual assault survivors. Publication bans to protect identities are one way the legal system tries to encourage survivors to come forward about these events.

What are my responsibilities if there is a publication ban in place?

A publication ban extends beyond just the media and applies to anyone who could publish information that might link the survivor to the particular sexual assault case. This includes making information public on social media.

If there is a publication ban in place to protect your identity, remember your name cannot be reported in the news and you cannot communicate with the media in any other way (for example, writing a letter to the editor that identifies you as the victim or witness in the case). If the identity of someone you know is protected by a ban, it is important to be respectful of their desire for privacy, even after the trial has ended.

Not obeying a publication ban is a criminal offence.

Endnotes

¹ "3.4 Sealing Orders and Publication Bans" (1 March 2014), online: .

² "Nova Scotia loosens ban on naming Rehteah Parsons" (17 December 2014), The Globe and Mail, online: .

³ Jennifer Stoddart (9 November 2011), , comment on Open Courts and Privacy Privacy Law in Canada.

⁴ *Supra*. [Criminal Code] s. 486.4 ss. 2

⁵ Tamara Baluja, "Know the rules about publication ban before covering the courts", (1 October 2013), J-Source, online: .

⁶ *Ibid.* s.486.5 ss. 7.



⁷ *Ibid.*

⁸ *Supra.* [AttorneyGeneral]

⁹ "Best Practices for Investigating and Prosecuting Sexual Assault" (April 2013), at p 60, online: <https://justice.alberta.ca/programs_services/criminal_pros/documents/sexualassaulthandbook-policecrown.pdf>.

¹⁰ Canadian Judicial Council, "The Canadian Justice System and the Media" (November 2007), at p 16, online: .

¹¹ Holly Johnson, "Limits of a Criminal Justice Response: Trends in Police and Court Processing of Sexual Assault" in Elizabeth Sheehy, ed, *Sexual assault in Canada: law, legal practice, and women's activism* (Ottawa: University of Ottawa Press, 2012) at 613.

¹² Statistics Canada, Canadian Centre for Justice Statistics Profile Series, "Sexual Assault in Canada 2004 and 2007" at 8.

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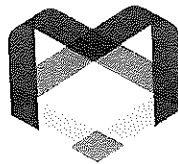
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ARTICLE

Sweden: Swedish Media Criticized by Swedish Press Council for Publishing Names of #MeToo Accused Without Cause

t. 4, 2018) On June 25, 2018, the Swedish Pressens opinionsnämnd (PON, Press Council) in an unprecedented move issued critical opinions of the media regarding 10 of the 11 cases brought forward during 2018 in connection with the #MeToo movement. The Press Council condemned the media for publishing without sufficient cause the names of persons accused of sexual misconduct. (*Senaste fällningar*, PON (June 25, 2018).)

Press Freedoms and Ethics in Sweden

Under Swedish law publishers are protected by two of the four laws that make up the Swedish Constitution—the Freedom of the Press Act (TRYCKFRIHETSFÖRORDNINGEN (TF)) and the Fundamental Law on Freedom of Expression (YTTRANDEFRIHETSGRUNDLAGEN (YGL)), both on the Swedish Parliament website). However publishers' freedom is not unlimited, and violations of press freedom may be punished. (1 kap. 3 § TF.)

In Sweden, media houses voluntarily subscribe to the Ethical Guidelines on Publishing. (*Publicitetsregler*, JOURNALISTFÖRBUNDET (May 21, 2018).) These rules include provisions highlighting the importance of respecting the private life of persons that the media houses write about. (*Id.* paras. 7–10.)

PON is responsible for determining what constitutes "the use of good publishing practice." (PON, 1 § Stadgar för Pressens Opinionsnämnd, PON website (all translations by author).) PON is made up of two members each from the Publicistklubben (Publisher's Club), Svenska Journalistförbundet (Swedish Journalist Association), Svenska Tidningsutgivareföreningen (Swedish Newspaper Publishers' Association), and Sveriges Tidskrifter (Sweden's Magazines). (*Id.* § 6.)

Publishers that are criticized by PON for violating the press ethical rules are obliged to publish the PON opinion in the same form (i.e., digital, print, or video) as the original criticized piece was published, and must also pay fines to PON, the amount of which depends on the size of the publication's distribution. (*Id.* §§ 11 & 13.)

In addition to rules mentioned above, state media have additional requirements for how a broadcast may be conducted.

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Section 15 of the *Stadgar* provides that "[t]he individual's right to private life shall be respected in the program activities unless an undeniable public interest demands otherwise." (*Det gäller vid namnpublicering i svenska medier*, SVT (Oct. 17, 2017).) Thus, the general rule for state media is to not publish the names of persons suspected or accused of a crime. Instead, state media policy has been to publish the names only when the crime "is particularly serious and when there is a great public interest. Publishing the name can also become relevant if [the crime] concerns a public person, such as a politician, CEO, or other person in a role of responsibility." (*Id.*)

PON's Media Criticism

During the past year with the growth of the #MeToo movement, several Swedish media corporations have published the names of persons who were not formally accused of sexual misconduct crimes in courts of law but who had been publicly accused by alleged victims. For instance, *Svenska Dagbladet* published an article with the name of a man accused by 12 women of sexual harassment. (PON, *Svenska Dagbladet klandras för publicering om NN [namn angivet]* (Case: *Svenska Dagbladet*, exp. nr. 88/2018, dnr. 17409, June 25, 2018).)

In this case PON found that

[w]hen a name is published and the person mentioned is negatively affected, it is of great importance that the publisher act with restraint and responsibly during the publication. A fundamental prerequisite for publishing must be that the publishing is compatible with good publishing practices and that there is evidence to substantiate the information.

Even though the newspaper that published the information had investigated the events and interviewed the participants, PON found that what the newspaper had accumulated in the form of background material did not warrant publishing a name. (*Id.*)

Another man, Martin Timell, a well-known media personality and TV carpenter who was publicly accused of sexual violence, including rape, but was later cleared of all charges in court also had his name published in the media. (PON, *Expressen klandras: Pekade ut Martin Timell som skyldig* (Case: *Expressen*, exp. nr.

17495, June 25, 2018); *Timell efter domen: 'Är oerhört lättad'*, NÖJE (June 8, 2018).) The media outlet *Expressen* was criticized for writing about Timell as if he was already guilty. (*Id.*) PON did acknowledge that sexual violence crimes are of great public interest, and that it is imperative that such accusations be brought to light. It also maintained that public figures such as Timell must bear greater scrutiny than a nonpublic person. However, PON found that because Timell had been accused of a rape that had occurred a long time ago, the public interest did not warrant publishing his name. (PON, *Expressen klandras: Pekade ut Martin Timell som skyldig* (Case: *Expressen*, exp. nr. 89/2018, dnr. 17495, June 25, 2018).)

#MeToo Accusations May Be Defamation

Under Swedish law, even true accusations may be defamation—the fact that an accusation is true is not in itself a defense against defamation (*förtal*). (5 ch. 1 § 2 mom. (BROTTSBALKEN [BRB] [CRIMINAL CODE] (SFS 1962:700).) Swedish courts have sentenced individual women to pay day-fines (fines calculated on the basis of the accused's daily income) as well as monetary compensation for accusing men on social media of raping or sexually assaulting them. (See, e.g., *Fredrik Samuelson, Kvinna döms för förtal efter #metoo-inlägg*,

Skip to main content 018.)

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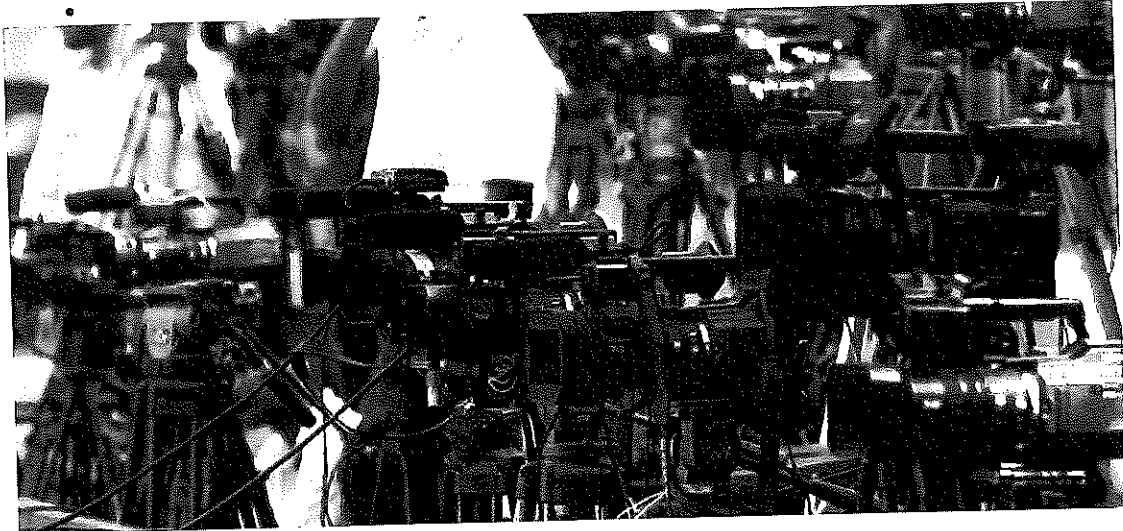
MEDIA MATTERS

Don't name the accused, victims, witnesses: Crime reporting in Maharashtra could change for good

The state government has ordered police and prosecutors not to disclose case details to the media until the filing of the chargesheet. But will the public servants follow the instructions?

Bhavya Dore

Aug 30, 2015 · 10:30 am



Arko Datta/Reuters

As a criminal lawyer, Rahul Thakur has watched lives being ripped apart by media reportage. And for the last eight years, he has been trying to fix this.

In 2007, Thakur filed a public interest litigation in the Bombay High Court after

dealing with scores of cases in which people were accused or arrested for a crime but later let off. However, by that time, the accused persons had had their lives exposed, their guilt presumed and their futures ruined because of press coverage.

“What really irked me was coming across photographs of the accused in the media,” Thakur, 37, said. “People’s lives have been destroyed by such reporting.” It was mostly the poor who were affected, he said. Unable to find jobs or hounded by neighbours, they were forced to leave the city even though cases against them had been closed.

The PIL seeks to get around this, by seeking police discretion in giving out information in cases where the chargesheet is yet to be filed.

Truth, not perception

The crime reporting landscape that Thakur wants to change could alter significantly now, if the Maharashtra state police seriously follow a circular the government issued last year.

In June this year, the state government informed the Bombay High Court of its decision to abide by a set of instructions contained in an October 2014 circular. The document ordered police and prosecutors not to disclose the identities of accused persons to the media, the methods of investigation or details about the family of the accused.

This means the police are forbidden from giving out information to the media on the basis of the lodging of a first information report – the initial complaint – and can do so only once the chargesheet – the formal document of accusation by the police – has been filed in court.

“Till the chargesheet is filed, it is only an allegation,” said Thakur. “People have a right to know, there is no doubt about it. But the people have a right to know the truth, not the perception of the truth portrayed by a section of the police.”

Thakur points to the state’s 6% conviction rate as evidence that a huge proportion of those accused was ultimately not found guilty.

Abandoning old practice

The new rule means that news reports should not contain names of the accused, victims, witnesses or the status of the investigation – details liable to hamper the case. The Mumbai police press notes, for instance, no longer mention names or personal details of accused persons, a departure from earlier practice.

“This is to ensure proper justice is done to the accused, the victims and their families,” said A Vagyani, the chief government pleader. “Nothing that could affect the course of the probe should be revealed.”

The circular is based on certain practical considerations. If the progress of the investigation is reported in the media, people might be able to take steps to destroy evidence. If the photos of witnesses are used, it could threaten their security. If accused persons’ photos are printed, it could impact the process of the identification parades. If the prosecution reveals details of the evidence at hand or what could be brought on trial, the nature of confessional statements. All these have the potential to distort the trial procedure.

Taking these factors into account, the court had previously highlighted the need to preserve the privacy of the victim as well as the rights of the accused. The police practice of divulging information, the court said, “may seriously affect the quality of the investigation. If pending the investigation, all the particulars of the investigation including the contents of the statements made by the witnesses during the investigation are revealed, the accused or persons involved in the crime can certainly take undue advantage”.

Thakur notes that the practice of feeding media information gained ground after police officers began boasting about encounter killings. It then extended to all kinds of crimes. “I was annoyed by the police parading the accused in the media,” said Thakur. “The accused would be made to sit near the heels of the officers and they were being paraded like trophy animals.”

Training stakeholders

In its latest order in June, the court said it was necessary to train people so as to effectively implement the government guidelines “in the larger interest of the administration of justice”. The court has sought a reply from the central government on its stand in the matter, though that is still awaited. The next hearing is slated for September.

So far, the onus has been on the police and the prosecutors to refrain from communicating such news to the media. Although the Press Council of India has been added as a party in the proceedings there have been no outright instructions to journalists themselves. In a previous order the court steered clear of this territory, remarking it was “really not entering into the wider issue regarding what can be printed or displayed by the media” but rather “with the administration of justice” and the “conduct of investigating officers and higher police officers of making disclosures” pending investigation.

“The question is about how much access should be given to the media, and what



the media does with this access,” said Saurav Datta, who teaches media law in Mumbai. “No limitations or guidelines can be laid down in this regard because that would violate the freedom of the press. However, that doesn’t absolve either the media or the police/ investigating agency of certain responsibilities.”

Datta said that details of investigation contained in the police case diary could only be disclosed to the court. “However, the police selectively leak details to further their own agenda,” he continued. “Conversely, the media also requires access, otherwise how would it hold the police to account in case the investigation is being deliberately delayed or botched up?”

Worth the wait

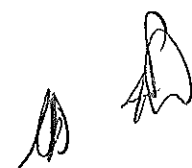
There is no explicit prohibition on the media from reporting on bail applications or bail orders dealing with the accused before the chargesheet has been filed. There is also no bar on others involved in the case informing the media of various developments. For instance, if the complainant who has lodged the FIR informs reporters of this, or if the victim or a witness does so, the state can do little. Ultimately though responsibility lies with all sides. “At the end of the day, a balance has to be struck, and the onus is on both the media and the police to ensure that no one’s right to a free and fair trial is violated,” said Datta.

News reports, nevertheless, continue to carry details that the government circular forbids officers from disclosing – for instance, they published lawyer Jahnavi Gadkari’s name, family details and photos of family members even before the chargesheet was filed. Similarly, the alleged ISIS applicant’s name also appeared in public. “Right now media houses don’t know to what extent they can report,” said Thakur. He has set about to remedy this himself by speed posting the latest court order to all major news outlets about a fortnight ago.

It has now been eight years since he filed his PIL. “It has been worth it,” he said. “If it had taken 10 more years I would have still fought.”

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Naming of sexual assault victims online is 'of great concern'



Minister for Justice & Equality, Helen McEntee TD, and Mr Tom O'Malley of NUI Galway, as they launch the O'Malley Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences. Picture: Sam Boal / Photocall Ireland
THU, 06 AUG, 2020 - 16:03

PAUL HOSFORD, POLITICAL CORRESPONDENT

The naming of victims of sexual violence on social media is "of great concern", the author of a review into sexual offence trials has said.

The O'Malley Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences was published yesterday and contained 50 recommendations on how sexual offence trials should be approached.

Its author, barrister and NUI Galway law lecturer Tom O'Malley, said more needs to be done to prevent the names of alleged victims being spread online.

"That's something that is of great concern. One of the recommendations we make is that just as there is a prohibition on a person or a victim, being named or accused person being named in broadcast, or public broadcast, or a publication. I see no reason why that should also apply with equal regard to the social media insofar as they can be controlled," he said.

"We are recommending that, in relation to some of the older legislation governing rape, which dates back to the early '80s before you had social media at all, that there would be a more detailed review of the definitions of broadcast and print media, and broadcast media in particular, just to ensure that they're broad enough to cover wrongful disclosure over social media.

"We are all we all know it's very difficult to control but I think we have to do the very best we can to ensure that it is controlled."

Justice Minister Helen McEntee said she believed that social media could be controlled and said her priority was ensuring that Ireland's legislation kept up with technological changes.

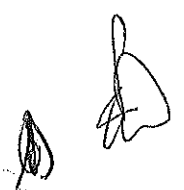
Mr O'Malley also said that his recommendation that an application be made to question a victim about other sexual experiences "only in exceptional circumstances" would also ensure that victims are no longer surprised with questioning.

"It serves a number of functions," he said.

"First of all, it serves to put the victim on notice that this may happen rather than it be hopped upon them, so to speak, at the trial."

"There is another much more important issue which is that since 2001, a victim of those circumstances, is entitled to separate legal representation while the application is being made in court."

Often, he said, it can be difficult to get legal representation which is at the same level as the person who is representing the defendant or prosecution in court because the legal aid board, which is responsible for providing such representation, often has to act very quickly to source this representation.



The review has been broadly welcomed by NGOs who deal with sexual violence, despite some criticism of the retention of anonymity for accused people, something Ms McEntee said went to the "cornerstone of our justice".

CEO of the Dublin Rape Crisis Centre Noeline Blackwell said that the report made clear that sexual violence was unique to other crimes.

"The Rape Crisis Network of Ireland's Executive Director Dr Cliona Saidlear said that the review was "a credible and concrete response".

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[Sex workers' group denied funding by Department of Justice](#)



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Untangling the vexed question of anonymity in sex cases

Should the practice of automatic non-naming of accused come to an end?

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Not named: the majority of those convicted of sex crimes in the Central Criminal Court are not named in the media after conviction

Conor Gallagher

Mon Mar 3 2014 - 14:36

Handwritten signature or initials in the bottom right corner of the page.

The recent prosecutions of British celebrities for sex offences have highlighted the differences between UK anonymity laws and those in Ireland, which prohibit the identification of rape accused before conviction.

The failed prosecutions of two *Coronation Street* actors have reignited a debate in the UK about whether rape accused should continue to be named pre-conviction. And while Ireland shows little desire to adopt the UK system, our anonymity laws are not without their problems.

Irish law states that those accused of rape can only be identified publicly if convicted.

However data shows that even after conviction, the majority of rapists are never named publicly, due to our strict rules protecting complainant's identities.

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An analysis of data from 2011 to present shows that 59 per cent of those convicted of sex crimes in the Central Criminal Court are not named in the media after conviction.

This is because identifying such people could lead to the identification of the victim, either because the offender was a relative, or could be easily linked to the victim in the mind of the public.

[Learn more](#)

It is a feature of Irish sex crime that a huge proportion of sex offences occur within the family. In the data studied, 34 per cent of victims were abused by family members. In other words, naming the abuser in the media could very easily lead to victim identification.

However, sometimes victims will allow their abuser to be named even if it might identify them; the data shows that 15 per cent of those abused by a family member consented to their abuser being identified after conviction.

Irish law has a long established practice of demanding complete anonymity in rape cases before conviction. On the face of it, it appears to be an uncontroversial system; someone is only named if guilty and then only if it doesn't identify the victim.

However an examination of the UK debate shows there are arguments to be made for removing automatic anonymity for accused. Victim campaigners claim that naming an alleged offender can lead to other complainants coming forward, as

shown in the case of Jimmy Savile. They also see the granting of anonymity for accused rapists as perpetuating the myth that many women make false rape claims.

These arguments are curiously absent from the Irish debate; in fact there is little debate at all. One reason for this could be the size of our population.

Caroline Counihan of Rape Crisis Network Ireland (RCNI) feels that pre-trial anonymity for accused is vital in this country because Ireland is so small and many rape cases come from small rural communities.

"It can be difficult enough for the complainant who finally plucks up enough courage to go to the guards. It's a nightmare, and it's just not going to help if their rapist is named and shamed in the local or national press even before conviction," she said.

Ms Counihan also believes our Constitution is a factor. The right to a citizen's good name means that stripping anonymity pre-conviction "is simply not a runner here". The Rape Crisis Centre takes the same position, while even Fiona Doyle, who was raped by her father for 10 years and went public after his conviction, is conflicted on the issue.

"I'm kind of for it and against it, I think my father was protected too much," she said. "But I actually think it would be unfair to name them, because mistakes do happen and people have been accused in the wrong and I think it would be very unfair to label them as a rapist or paedophile."

While it appears there isn't much appetite for naming rape accused here, there are other issues in our anonymity laws which many would like to see changed, such as the seemingly arbitrary granting of anonymity for some sex crimes and not others.

Rape, defilement and incest offences are the only sex crimes that carry automatic pre-conviction immunity. There is no doubting rape is one of the most damaging crimes on the statute book, however in terms of violence and depravity it is often matched by the supposedly lesser offence of sexual assault.

This leaves us with the strange situation where a man accused of violently sexually assaulting a woman can be named while a man accused of raping her retains his anonymity. Surely both crimes are just as damaging to the good name of a person who is innocent until proven guilty.

Barrister and legal academic Tom O'Malley believes that when the law was introduced, the thinking was that sexual assault was seen as a more minor offence.



"The reasoning at the time was that in the hierarchy of sexual cases, it was seen as less serious, as reflected in the fact that at the time the sentence was five years," he said.

"In recent years they've ratcheted up the seriousness of it and the penalties but they still haven't seen fit to include the anonymity for the accused," Mr O'Malley, of NUI Galway School of Law, added. "It's something that could be looked at in future in any review of the sexual offences law."

Senior counsel Sean Gillane has acted in many such cases and believes the current system "makes no sense at all". "It just seems to be something that was overlooked," he said. "They extended the protection for complainants from rape to include sexual offences generally but they never extended that protection for accused. There are many sexual assault cases which are, for want of a better phrase, worse than some of the rape cases you see."

A second area for possible examination concerns the misconception that rape victims have a legal right to go public after their attacker is convicted.

Although the phrase "the victim waived their right to anonymity" is often seen in news reports, it is not entirely accurate. The Criminal Law (Rape) Act 1981 and its amendments grant no right to a victim to allow themselves be identified.

According to a document from the Law Reform Commission there are two reasons the law doesn't include this provision. Firstly, it was thought that adding it could "sow confusion in the minds of complainants generally as to whether they could protect their identities in a rape prosecution".

Secondly, it was thought that giving victims the option to go public might leave them open to "pressure or inducement to allow their identity to be revealed".

Of course victims can, and often do, go public. A practice has arisen where a barrister for the DPP will tell the court at conviction that the victim wishes to "waive their right" and the judge consents.

Speaking from experience, Ms Doyle believes the decision shouldn't be made by the judge.

"It's a very personal choice," she said. "I was quite annoyed and angered that I didn't have the right to make the decision; it was put in someone else's hands."

Mr Gillane agrees that it shouldn't be a decision for the court: "The odd feature of it is that it tends to be indicated in open court by counsel for the DPP. What has counsel for the DPP got to do with it?" he said. "Or indeed what has the court got to do with it? It's just one of those practices that have grown up."



Ms Counihan believes the system should be examined but points out that judges don't tend to interfere with victim's decisions. She said it would be better if the right was explicitly granted to the complainant and that the upcoming Victim's Charter and the new Criminal Law (Sexual Offences) Bill might provide the opportunities to do that.

The Rape Crisis Centre operate a 24-hour confidential support service on 1800 77 88 88.

In numbers: Sex crime convictions at Central Criminal Court from 2011 to February 7, 2014

150

Number of cases in total

59%

of those convicted (88) were not named

41%

of those convicted (62) were named

3%

of victims (5) consented to themselves being named

34%

of rapists (52) were related to the victim



Conor Gallagher

Conor Gallagher is Crime Correspondent of The Irish Times



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Under-reporting of sexual violence still major issue, RCNI figures show



For those aged 13 to 17, the most likely form of abuse was rape, with the perpetrator more likely to be a slightly older male friend, acquaintance or neighbour.

WED, 16 DEC, 2020 - 20:00

NOEL BAKER

Under-reporting of sexual crime is still a major issue with latest data from the Rape Crisis Network of Ireland showing it is most acute among younger victims and older women subject to domestic violence and coercive control.

In its rape crisis statistics for 2019, based on figures from seven centres around the country, the RCNI said 1,298 people took up counselling and support, the vast majority survivors of abuse. There were also 10,706 Helpline contacts and more than 12,000 appointments.

Based on those annual numbers, the RCNI said patterns of abuse emerged.

Those aged under 13 were more likely to include males and to have suffered sexual assault over a period of years, most typically at the hands of a male family member. It was likely a decade or more before the abuse is disclosed and the rate of reports being made to gardaí was just 30%. Younger victims were also the least likely to experience continuous contact with gardaí throughout any subsequent case.

Handwritten initials or signature.

For those aged 13 to 17, the most likely form of abuse was rape, with the perpetrator more likely to be a slightly older male friend, acquaintance or neighbour. Disclosure was likely to follow within a year and the rate at which a report was likely to be made to gardaí was 45%.

Read More

Two decades on from the SAVI report, have we done enough to tackle sexual violence?

For those aged over 18 rape was also the most likely form of sexual violence, with a similar but slightly older perpetrator profile and a similar disclosure period. The rate at which a report was made to gardaí was 39%, but the RCNI said this average was pulled down by increased risk of non-reporting by those enduring domestic abuse and coercive control. They were also overwhelmingly likely to experience emotional, psychological and physical abuse.

According to the report: "Vulnerability to sexual violence is greatest for both females and males when they are in childhood (47% and 76% respectively).

"Male vulnerability to sexual violence decreases significantly as he grows into adulthood (76% in childhood to 14% in adulthood).

"Female vulnerability to sexual violence decreases as she grows into adulthood, but not as dramatically as male vulnerability to abuse (47% in childhood to 39% in adulthood)."

The report also shows that 6% of female survivors who were raped became pregnant as a result of the rape — 42 women and girls. Half went on to have their baby.

In addition, 6% of those attending counselling had a disability, 67 people, and 5% were asylum seekers.

The RCNI is among the organisations to welcome the new report by the government-appointed Special Rapporteur on Child Protection, which outlines proposals to strengthen protections for survivors of abuse.

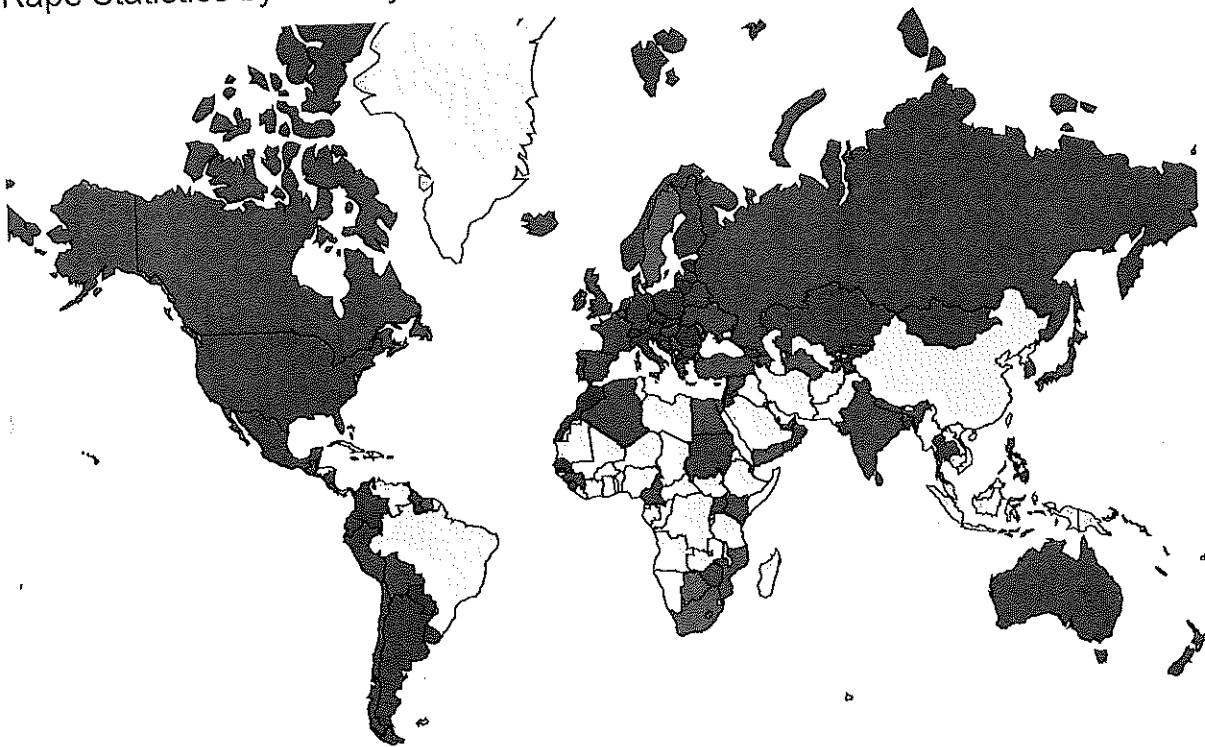
- www.rcni.ie



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Rape Statistics by Country 2022

Rape Statistics by Country 2022



Click on a tile for details.

Rape is an unlawful act that typically involves sexual intercourse carried out forcibly or under threat of injury against a person's will. Rape is a global problem.

The challenge of tracking down truthful rape statistics

Accurate statistics regarding rape are notoriously difficult to obtain. The biggest complication is that most victims of sexual violence choose not to report it. There are many possible reasons for this decision: embarrassment, victim shaming, fear of reprisal from the rapist, even fear of how the victim's own family will react.

Also, many countries' laws against sexual assault are insufficient, inconsistent, or not regularly enforced. This can leave the victim convinced that getting law enforcement involved will do no good, and in some cases could actually make things worse instead of better.

Whatever the reason for a victim's silence, the effect is that rape goes grossly underreported in many countries. It is estimated that approximately 35% of women worldwide have experienced sexual harassment in their lifetime. However, in most countries with data available on rape (including the U.S.), fewer than 40% of those women seek help—and fewer than 10% seek assistance from law enforcement. As a result, most rapists escape punishment. In the U.S., for instance, it is estimated that only 9% of rapists are prosecuted, and only 3% spend time in prison. 97% of rapists walk free.

Why country-to-country comparisons of rape statistics are so difficult

Another confounding issue when compiling and comparing global rape statistics is that the legal definition of rape can vary from one country to the next. The methods used to count rapes can also vary significantly. These differences include, but are not limited to:

- Some countries consider any non-consensual sex to be rape. Others classify a sexual assault as rape only when it exceeds a certain threshold of violence.
- Some countries acknowledge spousal rape. Others do not.
- Some countries count any report of rape. Others count only those incidents that proceed to a legal trial.
- Some countries include non-consensual, and sometimes also consensual, sex with a minor—typically classified as statutory rape—in their rape totals. Other countries place any sex with a minor, consensual or not, into a separate category.
- Some countries confine the definition of rape to forced vaginal penetration during sexual intercourse only. Others consider any unwarranted penetration of the mouth, anus, or vulva with any body part or object to be rape.
- Some countries track only male-on-female rape. Others also track female-on-female, female-on-male, and male-on-male rape.
- Some countries count each individual assault that occurs between the same people (for instance, a child and a relative, or a man and his arranged fiancée) as its own separate incident. Others add all of the incidents together and count them as a single rape.



- Similarly, some countries count gang rapes as a single incident regardless of how many individuals participated. Others count gang rapes as multiple incidents (one per participant, minus the victim or victims).

Despite these variances in recording and reporting methods, the data nonetheless makes clear that rape is a major issue all over the world.

For the year 2010, South Africa had the highest rate of rape in the world at 132.4 incidents per 100,000 people. In a survey released by the South African Medical Research Council in 2009, approximately one in four men admitted to committing rape. However, the government in South Africa is working to address this dysfunction, and proponents maintain that the rate has dropped to 72.1 in 2019-20 reporting.

Why Sweden's high number of reported rapes might be a positive sign

Statistics serve a vital purpose, but when taken at face value, they sometimes fail to tell the whole story. For example, countries that step up their efforts to prevent rape may see a rise in reported rapes rather than a decrease—but this is not necessarily bad. The key is to examine the *cause* of the increase.

It may be that a new, broader definition of rape is enabling more sex-related crimes to be categorized as rape. It may be that types of rape that previously went untracked (such as male-on-male or rape between a groom and his betrothed) are now being counted. It may also be that the legal system is getting better at catching and punishing rapists and/or society is doing a better job of supporting rape victims, so those victims are more likely to come forward and report the rape in the first place.

In each of these examples, the overall number of rapes will appear to rise statistically. However, the key to interpreting that statistical rise is to examine its real-world cause—which in some cases is an improvement in real-world policy regarding the definition of and systemic response to rape.

Sweden's seemingly oversized rape rate is perhaps the best-known example of this scenario. During the years 2013-2017, Sweden averaged 64 reported rapes per 100,000 inhabitants—a rate that tied for the highest in Europe. However, when the data was examined, it became clear that Sweden's high numbers were fueled in large part by Sweden's broader definition of rape and more inclusive reporting rules compared to other European countries. When the data was recalculated using Germany's narrower guidelines, for example, Sweden's average reported rapes per 100,000 people fell from 64 to 15, a decrease of 326.7%.

Country-to-country comparisons

The goal of the above example is not to imply that Sweden's definition of rape is too broad, or that Germany's is too narrow. Nor is it meant to minimize the severity of rape or downplay its frequency. Rather, it is to point out the massive impact that

differences in legal definitions, recording methods, and real-world reactions can have on a country's rape statistics. In light of this inconsistency, any country-to-country comparisons would do well to keep the apples-to-oranges nature of international rape statistics in mind.

Statistics on rape in the United States

The scope and severity of the issue of rape in the U.S. can be seen in statistics such as:

- While the frequency of rape in the United States varies from state to state, it averages out to one every 1-2 minutes.
- Women ages 16-19 are four times more likely than the general population to be victims of rape or sexual assault.
- 94% of women who are raped experience symptoms of post-traumatic stress disorder (PTSD) during the two weeks following the rape. 30% of those PTSD cases last at least nine months.
- 33% of women who are raped contemplate suicide.
- A high percentage of rape victims experience ongoing professional and/or emotional issues as a result of the attack.
- While the majority of sexual assault victims are female (82% of juveniles and 90% of adults), males around the world also experience sexual harassment, sexual assault, and rape every day.
- Transgender people and those with disabilities are twice as likely to be victims of sexual assault or rape.
- In the United States, 70% of rapes are committed by someone the victim knows.

Here are the 10 countries with the highest rape rates:

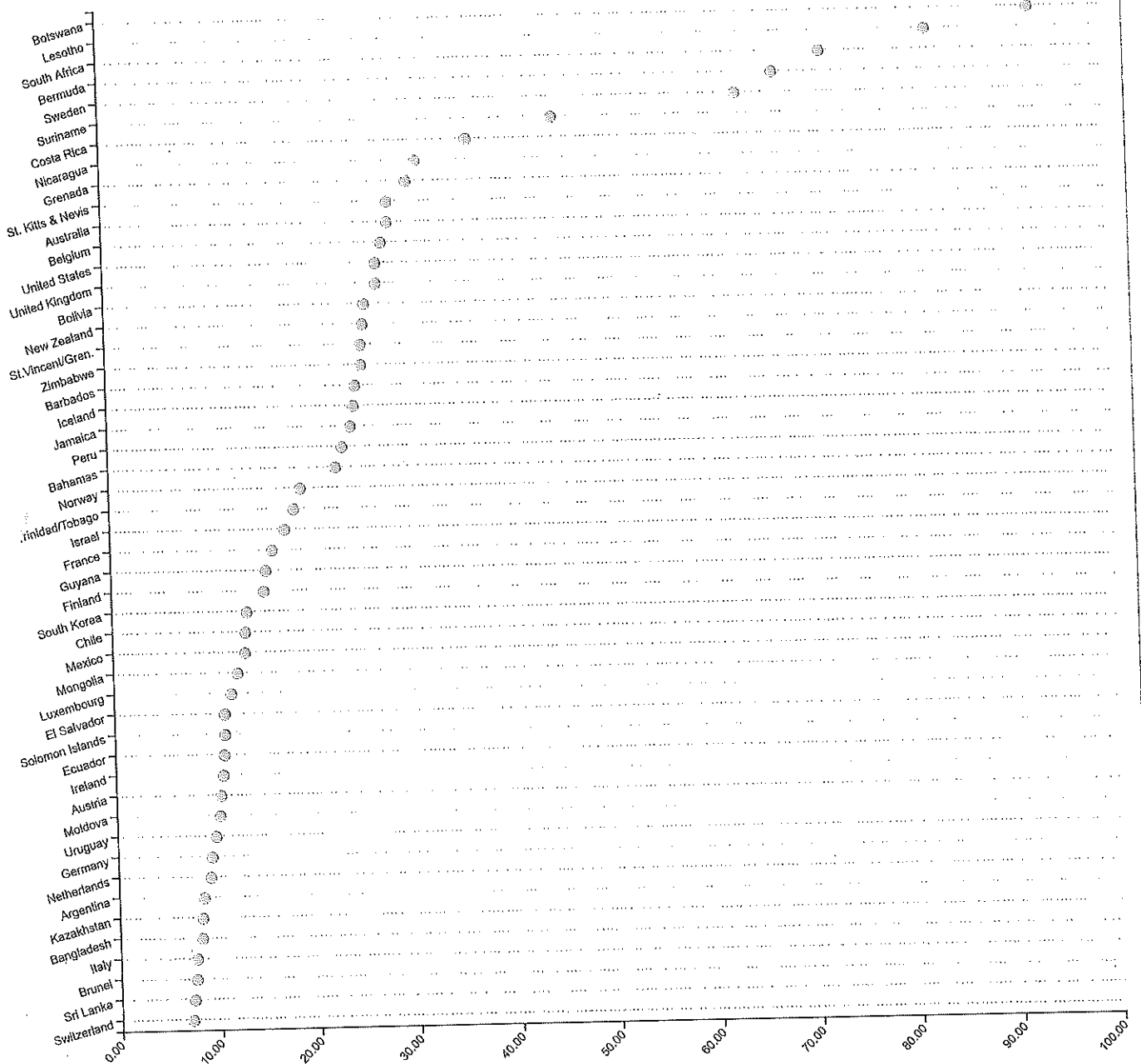
1. Botswana - 92.93
2. Lesotho - 82.68
3. South Africa - 72.10
4. Bermuda - 67.29
5. Sweden - 63.54
6. Suriname - 45.21
7. Costa Rica - 36.70
8. Nicaragua - 31.60
9. Grenada - 30.63
10. Saint Kitts and Nevis - 28.62

Show Sources

Rape Statistics by Country 2022

Rate





Show Sources

Rape Statistics by Country 2022

* Number of rape incidents per 100,000 citizens in different countries. Figures do not take into account rape incidents that go unreported to the police.

Country	Rate ▼	Incidents	Data Year
Botswana	92.93	1,865	2010
Lesotho	82.68	1,777	2009
South Africa	72.10	42,289	2019
Bermuda	67.29	43	2004

Country	Rate ▼	Incidents	Data Year
Sweden	63.54	5,960	2010
Suriname	45.21	223	2004
Costa Rica	36.70	1,685	2009
Nicaragua	31.60	1,829	2010
Grenada	30.63	32	2010
Saint Kitts and Nevis	28.62	15	2010
Australia	28.60	6,378	2010
Belgium	27.92	2,991	2010
United States	27.31	84,767	2010
United Kingdom	27.29	17,316	2010
Bolivia	26.05	2,587	2010
New Zealand	25.85	1,129	2010
Saint Vincent and the Grenadines	25.61	28	2010
Zimbabwe	25.59	3,186	2008
Barbados	24.93	68	2009
Iceland	24.72	78	2009
Jamaica	24.37	668	2010
Peru	23.47	6,751	2009
Bahamas	22.75	78	2010
Norway	19.21	938	2010
Trinidad and Tobago	18.48	247	2009
Israel	17.53	1,243	2008
France	16.19	10,108	2009
Guyana	15.51	117	2010
Finland	15.25	818	2010
South Korea	13.50	6,321	2004
Chile	13.30	2,233	2008
Mexico	13.22	14,993	2010
Mongolia	12.41	342	2010
Luxembourg	11.71	57	2008
El Salvador	11.00	681	2010
Solomon Islands	10.98	56	2008

Country	Rate ▼	Incidents	Data Year
Ecuador	10.88	1,484	2006
Ireland	10.72	479	2010
Austria	10.42	875	2010
Moldova	10.30	368	2010
Uruguay	9.85	327	2004
Germany	9.38	7,724	2010
Netherlands	9.21	1,530	2010
Argentina	8.48	3,367	2008
Kazakhstan	8.29	1,298	2008
Bangladesh	8.21	11,682	2006
Italy	7.64	4,513	2006
Brunei	7.56	28	2006
Sri Lanka	7.30	1,432	2004
Switzerland	7.08	543	2010
Oman	6.94	183	2008
Colombia	6.80	3,149	2010
Belize	6.74	21	2010
Thailand	6.71	4,636	2010
Denmark	6.37	352	2009
Philippines	6.34	5,813	2009
Lithuania	6.26	208	2010
Estonia	6.04	81	2010
Paraguay	5.97	359	2006
Kyrgyzstan	5.89	314	2010
Monaco	5.67	2	2006
Senegal	5.57	693	2010
North Macedonia	5.04	103	2006
Morocco	4.76	1,507	2009
Romania	4.68	1,007	2009
Czech Republic	4.60	480	2009
Kuwait	4.50	119	2009
Poland	4.09	1,567	2010

Country	Rate ▼	Incidents	Data Year
Portugal	3.97	424	2010
Mauritius	3.93	51	2010
Latvia	3.46	78	2010
Russia	3.43	4,907	2010
Spain	3.42	1,578	2010
Bahrain	3.42	36	2008
Croatia	3.20	141	2010
Slovenia	3.10	63	2010
Maldives	2.93	9	2008
Sudan	2.87	1,189	2008
Guatemala	2.86	401	2009
Bulgaria	2.82	211	2010
Singapore	2.68	118	2006
Malta	2.64	11	2010
Slovakia	2.60	142	2009
Cyprus	2.48	27	2009
Hungary	2.46	246	2010
Cameroon	2.44	447	2007
Algeria	2.36	812	2008
Belarus	2.26	218	2009
Kenya	2.15	847	2009
Uganda	2.12	709	2010
Jordan	2.00	110	2006
Greece	1.89	215	2010
Georgia	1.88	82	2010
Qatar	1.82	13	2004
India	1.81	22,172	2010
Montenegro	1.75	11	2006
Canada	1.69	576	2010
Hong Kong	1.59	112	2010
United Arab Emirates	1.54	72	2006
Turkey	1.51	1,071	2008

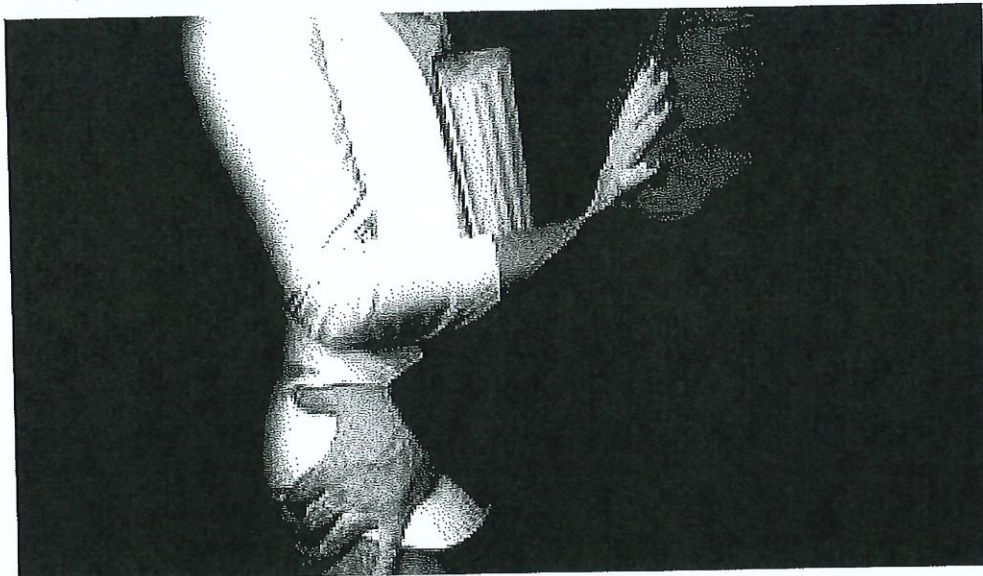
Country	Rate ▼	Incidents	Data Year
Sierra Leone	1.41	79	2008
Ukraine	1.40	635	2010
Bosnia and Herzegovina	1.22	46	2010
Andorra	1.18	1	2010
Japan	1.02	1,289	2010
Guinea	0.98	92	2007
Syria	0.79	156	2008
Nepal	0.75	210	2006
Yemen	0.75	176	2009
Albania	0.75	24	2010
Serbia	0.73	72	2010
Turkmenistan	0.56	27	2006
Tajikistan	0.53	36	2009
Lebanon	0.46	19	2006
Armenia	0.36	11	2010
Mozambique	0.19	44	2009
Azerbaijan	0.17	16	2010
Egypt	0.11	87	2008
Liechtenstein	0.00		2010

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Ireland has highest level of claimed sexual harassment in Europe

Ireland has the highest level of claimed sexual harassment in Europe - and is among the worst in the world.



FRI, 08 MAR, 2019 - 16:49
CONALL Ó FÁTHARTA

Ireland has the highest level of claimed sexual harassment in Europe - and is among the worst in the world.

That's according to a new survey of almost 31,000 people across 40 countries by market research and polling giant WIN International.

It found that 32% of women aged between 18 and 34 have experienced some form of sexual harassment in the last 12 months - the second highest out of all 40 countries surveyed and the worst in Europe. Only Mexico fared worse at 43%.

Ireland's rate of claimed sexual harassment among women in this age group was double that of the United Kingdom and more than twice the global average.

Mexico, Chile and Paraguay have the highest levels of claimed sexual harassment – with 16-20% having experienced this in the past year.

The prevalence of violence around the world is also high with 14.5% of the total sample experiencing violence in the last year.

Just over 1 in 10 adults in Ireland claim to have suffered violence, while the same proportion claim to have suffered sexual harassment.

Women are much more likely to have suffered sexual harassment, while younger age groups are more likely to have suffered either violence or harassment.

More than half (55%) of the population believe that the gender equality balance in Ireland either sometimes or always favours men, while just under one in five feels it sometimes or always favours women.

Like most of the other countries surveyed, Irish people feel social attitudes and behaviours favour men versus women. Some 68% of women think that the balance sometimes or always favours men.

Most people in Ireland believe gender equality has been achieved in the home and in social settings, and least likely in politics and work.

However, there is a major disparity between the views of men and women on this topic with regard to politics and work.

For example, 69% of men feel that gender equality has been achieved in the workplace compared to 47% of women. A total of 57% of men think that gender equality has been achieved in the political sphere compared to just 32% of women.

In general, Irish people have a lower opinion than the average of the rest of the world when it comes to views of gender balance in politics, but have a stronger view than the rest of the world in terms of equality in social settings.

President of WIN International Association, Vilma Scarpino, said that, while it is important to celebrate progress, it is clear that there is still some way to travel globally in terms of achieving true gender equality.



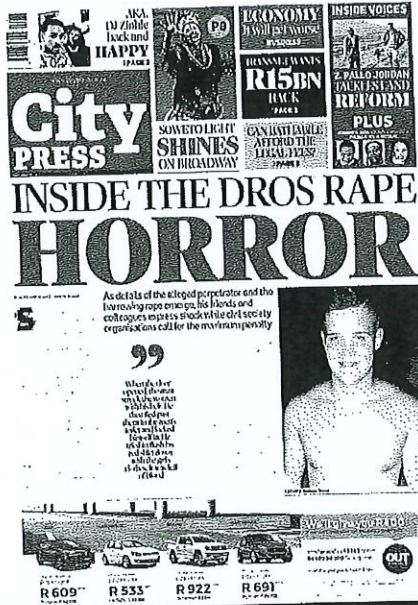


"CP 37"

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Your Sunday headlines in City Press

City Press

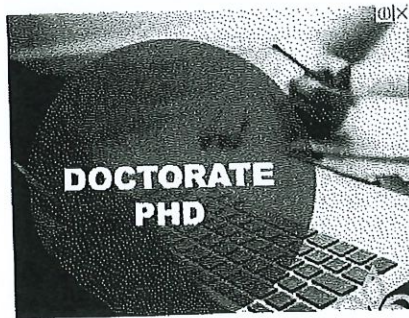


City Press front page September 30 2018

This is what you can expect in City Press today:

Inside the Dros rape horror

As details of the alleged perpetrator and the harrowing rape of a six-year-old girl emerges, Nicholas Nlnow's colleagues and friends express shock while civil society organisations call for the maximum penalty, City Press' sister newspaper Rapport takes a look at what happened that day as a naked Nlnow fled from the women's bathroom to the men's toilet.



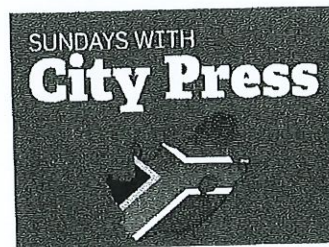
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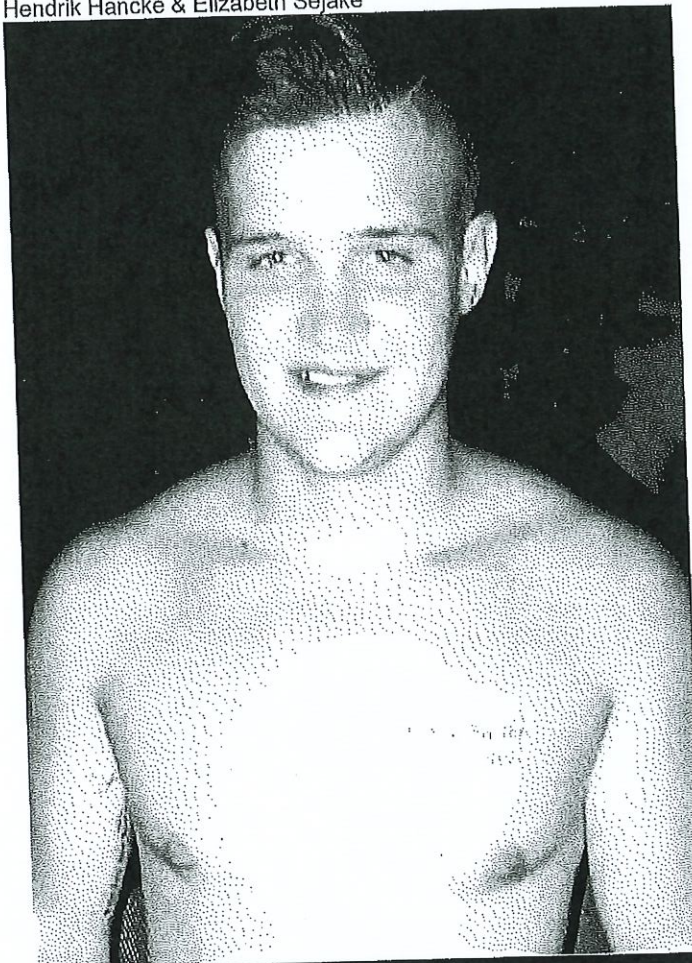
1/4

30 Sep 2018

'He tried to flush their clothes': Inside the Dros rape horror

City Press

Hendrik Hancke & Elizabeth Sejake



Nicholas Ninow Picture: facebook

Staff and witnesses at Pretoria's Dros restaurant have painted a harrowing picture of how Nicholas Ninow tried to flush his and a six-year-old girl's bloodied clothes down a toilet after he allegedly raped her.

Three waiters and another witness have broken their silence about how Ninow allegedly raped the child in a cubicle in the women's bathroom, but then fled to the men's toilets naked, where he allegedly tried to flush away the child's panties and leggings, and his own bloodied shirt.

The staff told City Press' sister newspaper Rapport that both Ninow and the girl's mother visited the Dros in Silverton regularly.

"The mother lives nearby in Mamelodi and often came here to eat," one of the waiters said on Friday.

Last Saturday afternoon, they claim, Ninow went to the bathroom twice.

"He took one route through the restaurant to the toilet but returned another way, past the play area," said one waiter. Half an hour later, he was seen going to the toilet again.

Shortly after that, the mother discovered that her child was no longer in the play area, and the staff member in charge of the children told her that the girl had gone to the toilet.

"In the women's bathroom there are three toilets. One toilet was out of order and there was a notice on the door to that effect. The mother looked into the other two toilets and when she did not find her child she became hysterical," said one waiter.

The staff came to help and one of the waiters saw feet behind the door of the broken toilet.

Staff and witnesses at Pretoria's Dros restaurant have painted a harrowing picture of how Nicholas Ninow tried to flush his and a six-year-old girl's bloodied clothes down a toilet after he allegedly raped her.

"When she touched the door, the child started crying and calling her mother," said another waiter, who was in the bathroom. The mother and four waitresses then tried to open the door.

"When the door opened, the man struck the women with his belt. He then fled past them to the men's toilet and locked himself in," the waiter said.

Customers and staff broke the door down. They found the child's panties and her leggings and the man's shirt in the toilet.

"He tried to flush his red shirt down with the girl's clothes. It was full of blood," alleged a waiter.

Five or six of the bystanders attacked Ninow before security guards intervened. "He cursed us and shouted. He said he was just trying to clean the girl because she had pooped," said another waiter.

The staff said Ninow was alone at the restaurant's bar when he first arrived, but was later joined by an older man. Their bill came to R700.

A video of what happened in the men's toilet posted on Twitter this week shows Ninow naked and covered in blood. He shouted to the bystanders that he was using the toilet as a woman sobbed hysterically in the background.

"But you're naked, you f***!" someone shouted at him.

"There's nothing f***ing wrong with me. I'm sober. I am mental man. I'm f***in' okay," Ninow yelled back.

The police later called two ambulances. Ninow was taken away in one of them.

The staff said Ninow was alone at the restaurant's bar when he first arrived, but was later joined by an older man. Their bill came to R700.

"The whole account was just for beer and shooters," said a waiter.

Friends of Ninow and his colleagues at the cellphone shop in the east of Pretoria, where he has been working for the past four months, said they were shocked at the allegations against him.

One colleague said: "We did not expect anything like this at all. On the contrary, he has always received compliments from customers. The Nicholas who worked with us is 360 degrees (sic) removed from this monster now being depicted here."

On Tuesday Ninow appeared in the Pretoria Magistrates' Court on charges of rape and possession of drugs. He is still in custody

Colleagues said the first sign of trouble was when Ninow did not arrive at work last Thursday.



"We tried to phone him, but only got his voicemail. We also phoned his grandmother, but she did not know where he was," another said.

On Monday, his grandmother sent them a WhatsApp message to say he could not return to work.

"He is in jail. Please let the manager know so that she can arrange with head office for the last of his payments, etc. Thank you," the message read.

The grandmother, who runs an agency for babysitters, declined to talk about her grandson.

Ninow has at least three active profiles on Facebook.

In October 2016, he said in a post that he was looking for work.

"I will be finished with matric by 10 November. My subjects are Business Studies, Geography and Tourism ... I am very interested in business and love to work with small children," he wrote.

On Tuesday Ninow appeared in the Pretoria Magistrates' Court on charges of rape and possession of drugs. He is still in custody.

A school friend said: "I would never have expected something like this from him. He is the kind of guy who always stood up for young people. He was not shy about using his fists, but never as a bully."

Ninow has a 19-year-old fiancée, who is six months pregnant with their child. She could not be reached for comment this week.

After allegedly raping the child, Ninow yelled at angry patrons who trapped him inside the men's toilet: "I would never do anything like that. I have a wife and a child on the way."

Another school friend, who is also his colleague, said he had not spoken to Ninow or his fiancée since Wednesday last week "and I do not want to", but added that the two became engaged in August last year.

"I do not want to get involved in this business," he said. "I think the engagement is broken off now."

Said another former friend: "He liked having a drink and at school he was often in fights. He did not discuss a problem. His fists did the talking."

Ninow, who changed his surname to his mother's maiden name, lived with his grandparents.

"Nicholas did not have ambition or future plans. He spent so much time away from school at that stage that I thought he had changed schools," said the former friend.

Ninow has a 19-year-old fiancée, who is six months pregnant with their child. She could not be reached for comment this week

At one stage, Ninow became a Christian.

"He said he had found the Lord, but then he would land up back in a fight, or one heard stories about drugs again."

Since the attack, civil society organisations have expressed fury and vowed to protest outside the court during his next appearance.

The United Democratic Movement Women's Organisation said it was shocked and outraged by the incident and would picket outside court against Ninow being granted bail.

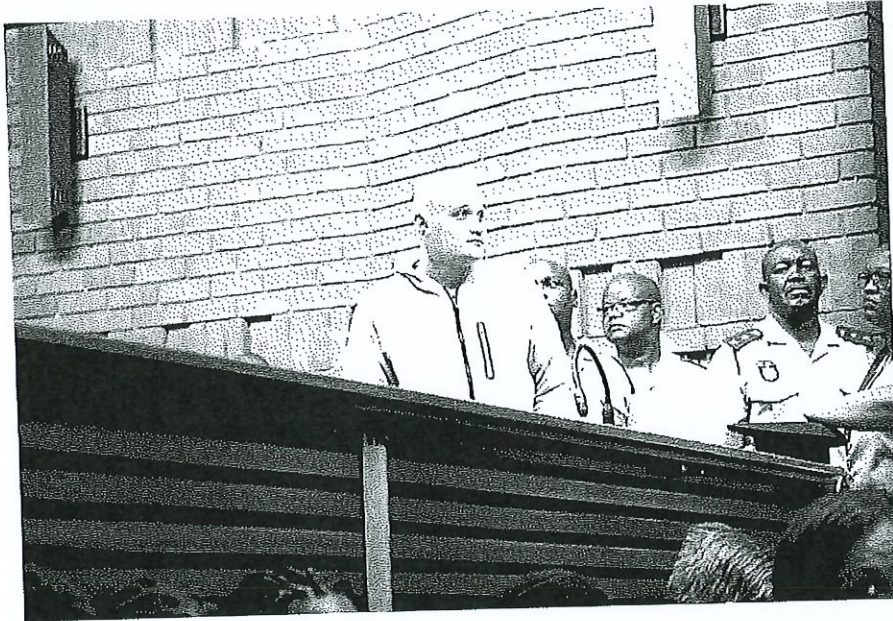
"What we have unfortunately witnessed in the past is that our justice system favours alleged perpetrators. We hope that our justice system will do what is right and lock him up for the rest of his life," the organisation said.

Crime statistics for the 2017/18 financial year released earlier this month showed that 23 488 sex crimes had been committed against children that year.



SOUTH AFRICA

Dros rape accused Nicholas Ninow to be sent for psychiatric evaluation



Nicholas Ninow, who is accused of raping a seven-year-old child in the bathroom of Dros restaurant in Pretoria, appeared before a packed Pretoria magistrate's court.
Image: THULANI MBELE

Dros rape accused Nicholas Ninow will undergo psychiatric evaluation at the Weskoppies Psychiatric Hospital in Pretoria.

The National Prosecuting Authority (NPA) has confirmed that Ninow, who stands accused of raping a seven-year-old girl in the bathroom of Dros restaurant in Silverton, Pretoria, is on the queue to be admitted to the public hospital on the request of his defence team.

Ninow is said to have been diagnosed with bipolar in 2013. "We did agree as the state. Remember, it constitutes a fair trial. So as the state we did not have a problem when they brought an application seeing that they have also alerted the state [to the fact] that he was actually diagnosed with bipolar in 2013," said NPA spokesperson Phindi Mjonondwane.

The case has been postponed to November 28 to give Weskoppies time to present a report. Ninow, who faces charges of rape, possession of drugs and assault with intent to cause grievous bodily harm, was remanded in custody.


Mjonondwane said they expected the case to be further postponed as there is no telling when Ninow would be admitted to the facility and how long the evaluation would take.

"We have faith in the work done at Weskoppies and we believe that they are in a position to give a detailed and truthful report in terms of his mental capacity to stand trial. Weskoppies has indicated that they will try by all means to allocate a bed for him within 30 days ... as to how long the process would take, unfortunately we cannot pre-empt that as the NPA because we are not experts that deal with such observations."

Ninow's defence also wanted to run a parallel evaluation process which the prosecution opposed.

"They wanted an additional expert to observe the accused's mental status and we as the state has refused such an application and said it is premature because Weskoppies has not yet compiled a report."

Mjonodwane said the defence had all the rights to dispute the report when it is finally submitted but that they cannot bring in an expert of their choice before Weskoppies presented its report. "Only if they are in dispute of the report Weskoppies has compiled, then they can say 'okay, we want another opinion,'" she said.

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POLITICS

Ramaphosa won't act on Godongwana: Legal process must run its course

19 August 2022 - 12:29



Amanda Khoza

Presidency reporter



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President Cyril Ramaphosa says he will wait for the law to take its course regarding the sexual allegations against finance minister Enoch Godongwana. File photo.

Image: GCIS.

President Cyril Ramaphosa has no intention to move on the sexual assault allegations levelled against his senior cabinet minister Enoch Godongwana.

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Instead, Ramaphosa said he will wait for the law to take its course.

Speaking through his spokesperson Vincent Magwenya, Ramaphosa said he was aware of the allegations against the finance minister.

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"Due legal process must run its course without any fear or favour. The president cannot be impulsive in his decision-making. His action must be informed by due legal process that needs to be allowed to run its course," said Magwenya.

TimesLIVE reported that the finance minister confirmed he has finally been informed by police that he is being investigated for sexual assault.

In a statement, Godongwana said he had been approached by the police on Thursday.

"I met with a police official and was furnished with a warning statement informing me of a criminal complaint laid in Skukuza in Mpumalanga. The complainant accuses me of sexual assault," he said.



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The sexual assault case was laid last week by a Mpumalanga masseuse who has accused the minister of assaulting her while she gave him a massage in his hotel room in the Kruger National Park.


"I confirmed to the police official that I was in the Kruger Park area on August 9 2022 when the alleged incident is said to have occurred. I repeated my previous assertion that I in no way or at any time inappropriately touched, sexually harassed or assaulted anyone.

"I am relieved to have finally been contacted by the police and given the opportunity to hear what I am being accused of. I am also glad to have the opportunity to place my denial on record. I take the allegations very seriously. As such, I am looking forward to the necessary legal processes unfolding. It is in the interests of all those involved in the matter for it to be resolved speedily, with due regard for the dignity and privacy of the complainant and myself."

Godongwana said as a husband, father, citizen and public servant, he, his family and the ANC were "deeply concerned" by the allegations levelled against him.

He expressed his confidence in the law and said he was complying with the authorities.

He reiterated what he told TimesLIVE on Thursday, that he believed the allegations were a part of a "smear campaign" against him spearheaded by a political agenda.

"I reject with contempt the allegations that I have attempted to silence the complainant by bribing her. As I informed the police, the identity of the complainant is unknown to me. These allegations are unfounded." 

Godongwana said he was sensitive to gender-based violence and said he had subjected himself to the ANC integrity committee on Thursday.

The finance minister stressed he would not be leaving his post.

"I wish to state that I intend continuing with executing my duties by focusing on the critical tasks of revitalising our economy and protecting the fiscus."

TimesLIVE also reported that Godongwana on Wednesday appeared before the ANC's integrity commission over allegations of sexual assault.

The commission will deliberate and make recommendations to the national executive committee (NEC). If its members believe Godongwana has a case to answer, it may recommend that he step aside as a member of the NEC and as finance minister.

The NEC is expected to meet on Tuesday next week to discuss proposed amendments to the party's constitution before the December elective conference.

It is expected a faction of NEC members opposed to Godongwana will raise the matter at the meeting.

Should the commission complete its deliberations by then, the meeting could hear the recommendations.

Integrity commission head George Mashamba told TimesLIVE on Tuesday though the body had not called Godongwana to appear before it, he was expecting the matter to come up at its Wednesday meeting.

TimesLIVE

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NEWS

Family of Godongwana's accuser breaks silence



Minister of finance Enoch Godongwana. File image
Image: Freddy Mavunda

The uncle of the woman who has accused finance minister Enoch Godongwana of sexual assault told TimesLIVE the family was initially hesitant to report the incident to police.

Instead, they wanted to discuss "face-to-face" with Godongwana what had happened to the 23-year-old woman, who gave the minister a massage at the exclusive five-star Kruger Shalati hotel in Skukuza on Women's Day, August 9.

"We did not want to open a case about all these things," he told TimesLIVE from his modest home in Bushbuckridge.

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The man who cannot be named to protect the identity of his niece, who in turn cannot be named as the victim of an alleged sexual offence, said while initially they were angry enough to have "eaten him alive", they just wanted to face Godongwana, "to talk and ask questions about why he did something like this".

"I want to ask him why he did this when he knew this is a young child and he is an old one, who should have been thinking better for this child."

Godongwana has vehemently denied the allegations against him, insisting his wife was in the room during his massage and that no sexual assault could have taken place.

The uncle said his niece had reported the alleged assault to her employer, Dee's African Spa, after it happened.

**Most of the community does not know.
We are very protective of her. We do not
want anything to happen to her.**

- the uncle of Godongwana's accuser

"They [the employer] did research about this. They discovered this is the truth. They called [her grandmother] and brought her to Kruger National Park."

After that, the uncle heard that a decision was made to open a case.

"Most of the community does not know. We are very protective of her. We do not want anything to happen to her."



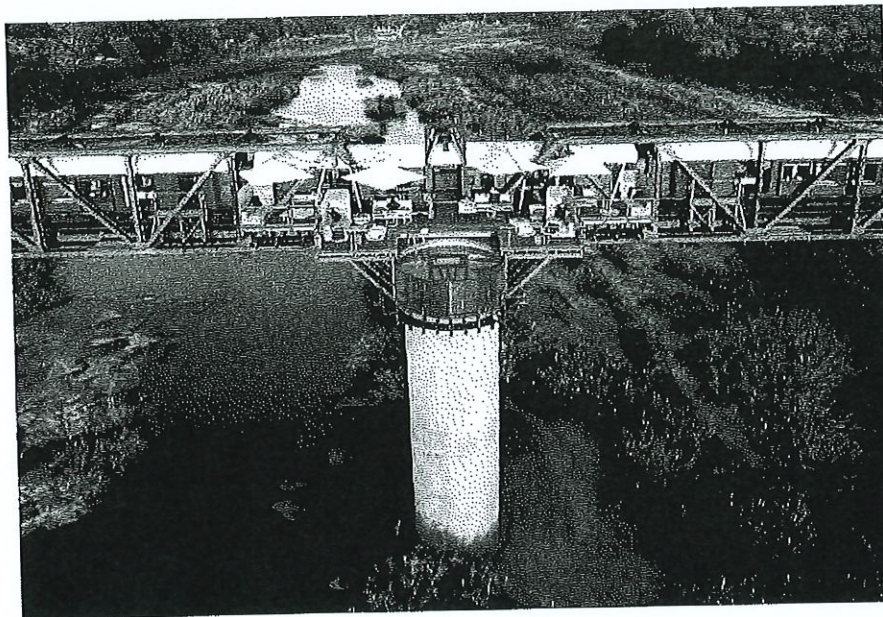
The masseuse has worked at the spa for a year according to her family, who say this was her first job.

The case was opened with the police three days after the alleged assault. The matter was investigated by Mpumalanga police's family violence, sexual offences and child protection unit and a docket was handed over to the National Prosecuting Authority for further direction.

The woman's grandmother, whom TimesLIVE interviewed shortly after the police arrived at the family's home to take a second statement from the masseuse, said the authorities needed to be allowed to do their work.

Seated on a couch in her lounge, next to her petite granddaughter who did not want to speak, the family was uncomfortable talking about what happened.

"It is painful. It affects me," the grandmother said.



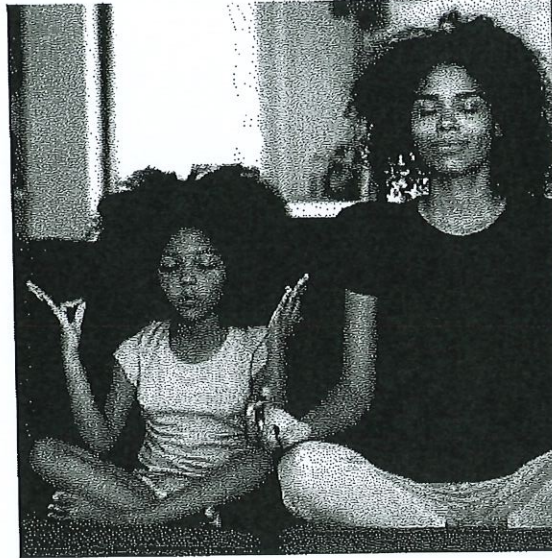
The five-star Kruger Shalati hotel in Skukuza where the incident is alleged to have taken place

Image: supplied

In a statement on Thursday, Godongwana vehemently denied the allegations.

"I confirmed to the SAPS official that I indeed was in the Kruger Park area on August 9. I repeated my previous assertion, that I in no way or at any time inappropriately touched, sexually harassed, or assaulted anyone.

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"I am relieved to have finally been contacted by the police and given the opportunity to hear what I am being accused of. I am also glad to have the opportunity to place my denial on record. I am looking forward to the necessary legal processes unfolding. It is in the interests of all those involved for the matter to be resolved speedily, with due regard for the dignity and privacy of the complainant and myself."

He rejected allegations that he had attempted to silence the complainant by bribing her.

"It is unfortunate that these allegations are being used as nothing more than a smear campaign against me, fashioned to achieve narrow and selfish political ends.

"It is terrible and hurtful for any woman to be on the receiving end of such a traumatic experience. I reject the abuse of women



in the strongest terms. I will never be party to such a thing.”

While the Skukuza camp has a massage spa on the premises, Dee's African Spa, which is based in Hazyview, brings its beauticians to clients' rooms after they make requests through the Skukuza camp's reception desk.

A Dee's African Spa masseuse, who did not want to be named, said guests asked for their room services because of privacy concerns.

“It is not something that is strange,” she said while waiting outside a room at Shalati Lodge where the Godongwanas had been staying. Dee's African Spa owner Dineo Molefe said: “The matter has been reported to the law. We are giving our staff member full support. I cannot comment any more than that. We are sitting and waiting [for the investigation outcome].”

Asked when the incident was first reported to the spa's management and when management helped their staff member to report the alleged assault to police, Molefe said everything had been reported.

Meanwhile, gender-based violence activist advocate Brenda Madumise-Pajibo said the only way to successfully prosecute a sexual harassment case was following a “trauma-informed” investigation which the victim should be able to trust. Asked whether the time it took a victim to report a case made any difference, she said it was advisable to report a sexual assault case immediately to avoid evidence being compromised. “Equally once the case has been reported the expectation is that it will be investigated immediately and seamlessly,” she said.

“However, most victims of sexual violence do not report such to police for many justifiable reasons, chief among them being the process of getting the victim to make an official report is the first hurdle-where you are treated as an accused rather than a victim. You are subjected to condemnation, ridicule and abuse.”



Suspended Bolt driver accused of rape might be linked to other cases with same modus operandi - cops

news24

07 March 2022
Canny Maphanga
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04:03

A suspended Bolt driver accused of rape might be linked to other cases.

- A suspended Bolt driver accused of rape may have other cases of rape linked to him.
- The driver returns to the Randburg Magistrate's Court on Tuesday.
- An online petition against Bolt for not verifying drivers has over 100 000 signatures and counting.

The suspended Bolt driver accused of rape might be linked to other cases of rape where the modus operandi is the same, Gauteng police revealed on Monday.

"A case of rape was opened at Douglasdale Police Station on 24 February 2022. The matter was referred to [the] Family Violence, Child Protection and Sexual Offences Unit for further investigation," Lieutenant- Colonel Mavele Masondo told News24. According to police, the investigating officer went on a manhunt for the suspect.

The suspect was arrested at Kyasands Informal Settlement on Saturday, 26 February 2022. He made his first appearance in the Randburg Magistrate's Court on Tuesday, 1 March 2022, and his case was postponed to Tuesday, 8 March 2022.

His name is known to News24, but cannot be published as he has not yet pleaded.

"The suspect might be linked to other cases of rape where the modus operandi is the same," Masondo added.

National Prosecuting Authority (NPA) regional spokesperson Phindi Mjonondwane confirmed that the matter returns to court on Tuesday.

"He is charged with kidnapping, [two counts of] rape, robbery with aggravating circumstances, and attempted murder," she told News24 on Monday.

Bolt has since suspended the driver from the e-hailing platform.

News24 reported that Bolt's regional manager for SADC, Gareth Taylor, said in a previous statement: "The implicated driver has been suspended from the platform and will only be reinstated if he is fully exonerated by the SAPS."

This comes after a woman took to social media on Friday, stating her friend had been sexually assaulted, allegedly by a Bolt driver.

READ | Bolt suspends driver accused of rape from platform, condemns any form of violence

This led to several other personal accounts of incidents at the alleged hands of Bolt drivers, with many users urging members of the public, especially women, to delete the e-hailing app in the interests of their safety.

On Monday afternoon, Bolt South Africa confirmed to News24 that the suspect was a registered driver on the e-hailing app.

"Bolt had [sic] considered the driver's profile, and there has been no similar complaints or referrals by passengers regarding this driver," Taylor said.

An online petition was recently launched against Bolt South Africa for not vetting/verifying its drivers and has garnered over 100 000 signatures and counting.

Taylor said they were aware of the online petition adding that tough feedback from people is extremely valuable to the service.

"If the people of South Africa didn't care about our platform, they would simply stop using us. Instead, more than 100 000 people have taken time out of their days to ask us to improve.

"To the more than 100 000 South Africans that have signed this petition, thank you for taking the time to let us know that you'd rather we improved than cease to be around," Taylor said.

The suspect remains suspended from the platform following the allegations, and he will remain unable to use the platform unless he is found not guilty of the incident in question.

"Bolt condemns any form of violence and takes accusations of sexual harassment directed towards e-hailing passengers very seriously, unwavering in our belief that every person has the right to move around without risk of harm, intimidation or coercion, or fear of death or injury," Taylor concluded.



Attorney accused of sexually assaulting advocate will face a disciplinary hearing - Legal Practice Council

19 Feb

news24

Jeanette Chabalala

02:21

- An attorney accused of sexual assault will face a disciplinary hearing.
- The Legal Practice Council confirmed the hearing will take place in March.
- The victim approached AfriForum's Private Prosecuting Unit for assistance.

The Legal Practice Council (LPC) has confirmed that an attorney accused of sexually assaulting an advocate will face a disciplinary hearing in March.

The attorney, who has acted as a judge in Gauteng, is also facing prosecution for the alleged sexual assault.

LPC spokesperson Kabelo Letebele confirmed to News24 that a formal complaint was lodged against the attorney, and an investigation was immediately instituted.

"The next stage of the process is a disciplinary hearing, which is scheduled to take place in March," Letebele said.

He said notices had already been issued to the parties concerned.

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Last week, lobby group AfriForum said the National Prosecuting Authority (NPA) indicated the man would be prosecuted.

The woman had approached AfriForum's Private Prosecuting Unit for assistance.



AfriForum said the woman had approached certain legal bodies, but "received little to no support... which is disappointing".

The Private Prosecution Unit made representations to the Director of Public Prosecutions in Gauteng, advocate Andrew Chauke, "because no criminal proceedings had been instituted against the judge at that time".

"After the complainant laid the charges against him, the acting judge (who was also nominated to appear before the Judicial Service Commission to become a judge) opened a case of crimen injuria against her. The NPA, however, indicated that they would not institute prosecution on the grounds of this charge," it said.

The head of AfriForum's Private Prosecution Unit, Gerrie Nel, said they believed there was enough evidence to prosecute.

Nel described the advocate as brave, saying she had decided to "stand firm against this type of criminal conduct against women".

He said the unit would monitor the case and continue to support the complainant.

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Top advocate's co-accused in child sex ring case previously charged with sexually assaulting boy, 11

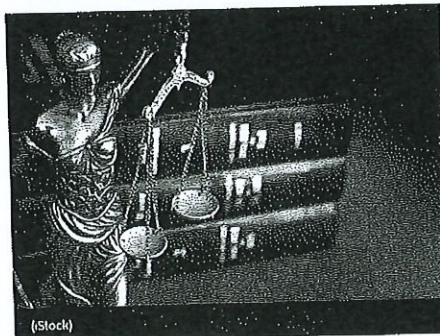
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Alex Mitchley



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05:12



(Stock)

- A well-known advocate and his co-accused face multiple charges relating to rape, sexual assault, human trafficking, and child pornography.
- It has since emerged that the co-accused was out on bail for another sexual assault case when the latest crimes were allegedly committed.
- It is alleged that the co-accused forced an 11-year-old boy to touch his penis in 2018.

A 53-year-old man was out on bail for the alleged sexual assault of an 11-year-old boy when he allegedly committed a myriad sexual offences against other minors with his co-accused, a well-known advocate who has acted as a high court judge.

News24 has obtained a charge sheet in which the advocate's co-accused was charged with four counts of sexual assault dating back to 2018.

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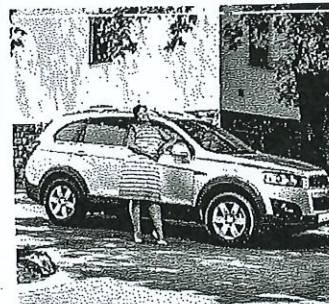
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The man has been accused of four counts of sexual

accused and the minor were at a school sports outing.

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The case is currently before the Alexandra Magistrate's Court for trial, after the accused pleaded not guilty in September last year.

Out on bail

According to the charge sheet, the man was arrested on 24 August 2018 and released on R5 000 bail three days later.

The alleged crimes committed in the human trafficking, child pornography and rape case against the advocate and his co-accused took place between September 2020 and July 2021, shortly before their arrests.

This meant that while the advocate's co-accused was out on bail for the sexual assault case, he was alleged to have raped two other minors, created child pornography, and human trafficked the minor victims to Johannesburg.

News24 previously reported that the advocate and his co-accused are accused of targeting minor boys on social media platforms, including Facebook and Grindr, a dating app for gay, bi, trans, and queer people.

READ | Human trafficking, child pornography and rape case against well-known advocate postponed

They allegedly solicited child pornography in the form of images and videos for which the boys were paid.

It is also alleged that the accused facilitated arrangements for the victims to travel to Johannesburg, where the boys were allegedly raped and sexually assaulted.

According to the indictment, the advocate's co-accused would also groom the children on how to perform sexual acts on older "clients" that he would secure.

"Accused one [advocate's co-accused] arranged the clients and schedules of clients that the children would service daily at his residence," the indictment

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to the children for sexual acts."

The indictment also read that:

[The advocate] made travel arrangements to move the children from accused one's place of residence to his home, where the children would engage in sexual acts with him, his friends and thereafter be paid.

It is further alleged that the advocate forced the victims to have intercourse with an unknown person while he and the co-accused watched and masturbated.

"... [the advocate] unlawfully and intentionally compelled [unknown person] to have sexual intercourse with [name of victim], a 16-year-old male, by inserting his penis into [name of victim's] anus, whilst [the advocate] masturbated himself, without the consent of the victim," said the indictment.

Three teenage boys aged between 15 and 16 were identified in the indictment as victims.

34 charges

According to the indictment, the pair faced 34 charges between them, including:

- Three counts of unlawful possession of child pornography;
- Five counts of unlawfully creating child pornography;
- Two counts of unlawfully importing or producing child pornography;
- Human trafficking;
- Benefitting from the service of a child victim of trafficking;
- Three counts of facilitating trafficking in persons;
- Two counts of involvement in offences under the Prevention and Combating of Trafficking in Persons Act;
- Conspiracy to commit offences under the Prevention and Combating of Trafficking in Persons Act;
- Two counts of rape;
- Two counts of sexual assault;
- Compelled rape;
- Compelled sexual assault;
- Four counts of sexual exploitation;
- Two counts of sexual grooming;
- Three counts of using a minor for child pornography; and
- Benefitting from child pornography

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31 Dec 2021

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police.

Police began their investigations with the assistance of the US Homeland Security department.

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It is understood that law enforcement authorities were investigating accused one and that through their investigations, the advocate was linked to the matter.

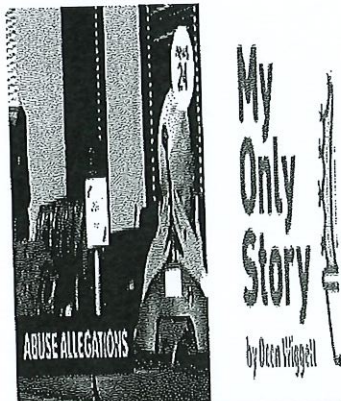
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News24 contacted the advocate, who said he would not be commenting on the matter, except that he denied the charges against him.

Both the advocate and his co-accused are currently

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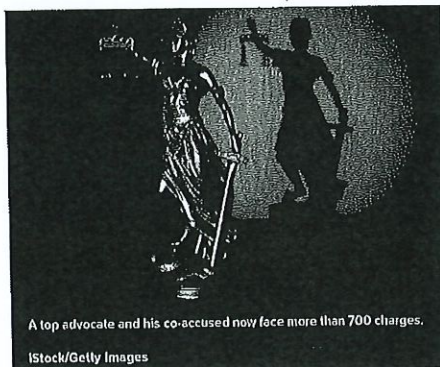
Top advocate, co-accused now face more than 700 charges, including child pornography and human trafficking

news24

Alex Mitchell



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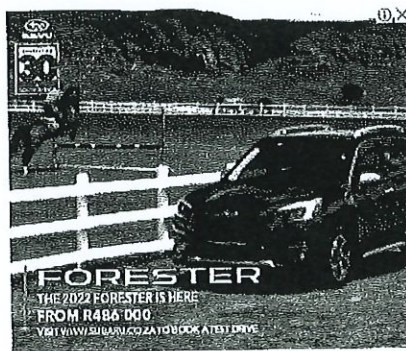


A top advocate and his co-accused now face more than 700 charges. iStock/Getty Images

- A senior advocate and his co-accused now face over 700 charges relating to rape, sexual assault, human trafficking and child pornography.
- The advocate has also been charged with three counts of rape of a minor.
- The case involves at least four minor victims.

Details in this story may upset sensitive readers.

A well-known senior advocate and his co-accused, in the so-called child sex ring case, face over 700 charges between the two of them, including hundreds of counts relating to child pornography, multiple counts of rape, sexual assault and human trafficking.



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Johannesburg on Friday.

The State handed over the final indictment, which contained 735 charges.

In comparison, the interim only included 34 charges.

All the alleged crimes occurred between September 2020 and July 2021, shortly before both accused were arrested.

The final indictment paints a picture of a well-organised child sex ring that targeted minors - grooming them and then selling them to be raped.

The indictment lists four victims between the ages of 15 and 16.

The victims were allegedly targeted through social media, then trafficked to Gauteng, where they were said to be sexually groomed before being sold to clients.

READ | Top advocate's co-accused in child sex ring case previously charged with sexually assaulting boy, 11

While most of the new charges in the final indictment relate to the unlawful possession, creation and importing or procurement and distribution of child pornography, both the advocate and his co-accused face a host of new charges, including rape and sexual assault.

Charges faced by advocate

According to the final indictment, the advocate has now been charged with three separate counts of rape.

In the first count, the State alleges that the advocate inserted his tongue into the anus of a child victim without the minor's consent.

The second count relates to the advocate allegedly performing the same act, but on another child victim.

According to the third rape charge, the advocate allegedly performed fellatio on a child victim without the minor's consent.

He was also charged with compelled rape.

Court papers state: "... [the advocate] unlawfully and intentionally compelled [unknown person] to have sexual intercourse with [name of victim], a 16-year-old male, by inserting his penis into [name of victim's] anus whilst [the advocate] and masturbated himself, without the consent of the victim."

READ | Top advocate allegedly used social media to find teenage boys, then paid them for lewd videos

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Rand - Aus dollar	10.85	▲ +0.2%
Rand - Yen	0.13	▲ +0.2%

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The advocate further faces charges of compelled sexual assault, sexual exploitation of children, the sexual grooming of children, benefitting of the services of a child victim of trafficking, financing, controlling or organising the trafficking of a child victim.

According to the State, the advocate had 25 images of child pornography on his cellphone and laptop.

He had also been accused of creating child pornography with at least one of the victims.

According to the summary of substantial facts, both accused were involved in the peddling of child pornography, which, in its various forms, depicted known and unknown minor children.

"The devices of both accused were confiscated and found to contain images and videos of child pornography," the indictment read.

Charges faced by co-accused

The advocate's co-accused faces hundreds of charges relating to the unlawful possession of child pornography.

According to the State, the co-accused had 253 videos of child pornography on his cellphone and an additional 386 images on his laptop. He has also been accused of creating and distributing child pornography.

READ | Child sex ring: Indictment paints picture of advocate's involvement in trafficking, grooming victims

The co-accused has also been charged with multiple counts of human trafficking and the sexual grooming of children.

It is alleged that he facilitated arrangements for the victims to travel to Johannesburg, where the boys were allegedly raped and sexually assaulted.

According to the indictment, the advocate's co-accused would also groom the children to perform sexual acts on older "clients" that he would secure.

"Accused one [advocate's co-accused] arranged the clients and schedules of clients that the children would service daily at his residence," the indictment read.

"The accused one would take a certain percentage of the money for himself that these clients would pay to the children for sexual acts."

He has also been charged with two counts of rape after allegedly inserting his penis into the anus of a child victim and "inserting the penis of the child victim into his mouth and suckling it".

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Indictment breakdown of charges between the two accused:

- 664 charges of unlawful possession of child pornography;
- Three charges of creating child pornography;
- Two charges of importing or procuring child pornography;
- Three charges of the unlawful distribution of child pornography;
- Three charges of trafficking in persons;
- One charge of attempted trafficking of a person;
- Four charges of benefitting from the services of a child victim of trafficking;
- Nine charges of facilitating, financing or promoting the trafficking of persons;
- Five charges of rape;
- Four charges of sexual assault;
- One charge of compelled rape;
- Two charges of compelled sexual assault;
- Seven charges of sexual exploitation or benefitting from the sexual exploitation of a child;
- Three counts of sexual grooming of a child; and
- Three counts of using children for or benefitting from child pornography.

Attached to the indictment were 31 pages listing the videos and images allegedly found on both accused's electronic devices.

Each entry also included a brief description of the video or image. These descriptions indicated the types of videos and pictures allegedly found on the electronic devices. These included images of children nude, children performing anal penetration sex, "toddlers performing fellatio" on adults, and the genitals of children, both boys and girls, being displayed.

The case against the accused was postponed to 28 January 2022, where it is expected that a trial date will be arranged.

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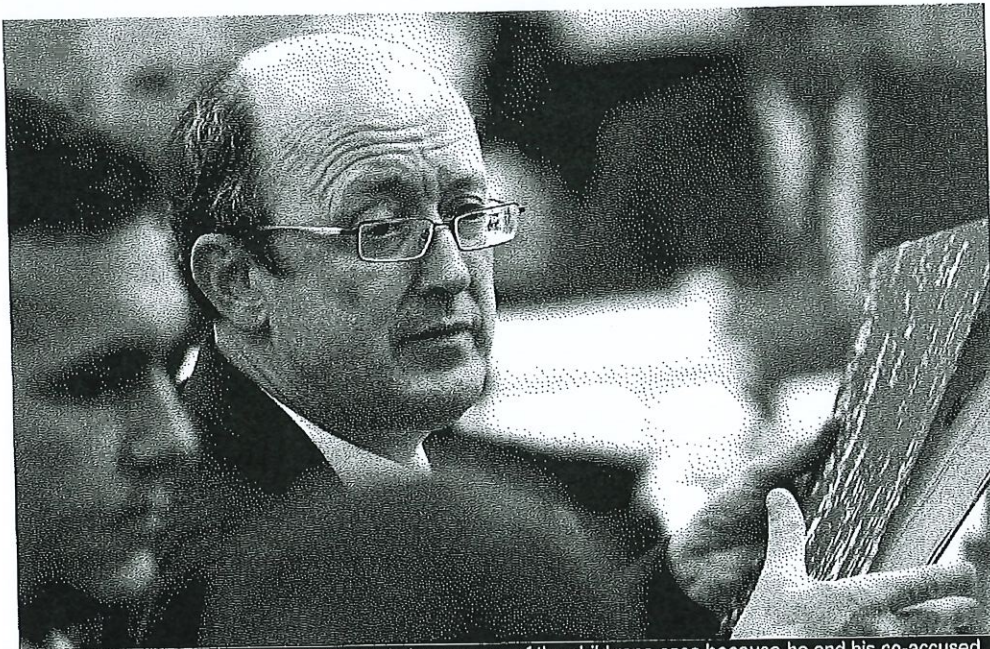
21 Feb 2022

Advocate Paul Kennedy, accused of child sex trafficking and rape, has died

news24

Alex Mitchley
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News24 had previously not named Kennedy in coverage of the child rape case because he and his co-accused had not pleaded.

(Photo by Gallo Images/Foto24/Craig Nieuwenhuizen)

- Advocate Paul Kennedy died on Monday.
- He was an accused in a child sex trafficking case, in which he faced charges of rape and sexual assault.
- Kennedy, a senior figure in the legal fraternity, previously acted on the Bench.

Well-known senior advocate Paul Kennedy, who is an accused in a criminal case involving more than 700 charges, including the rape of a minor and sexual assault, has died.

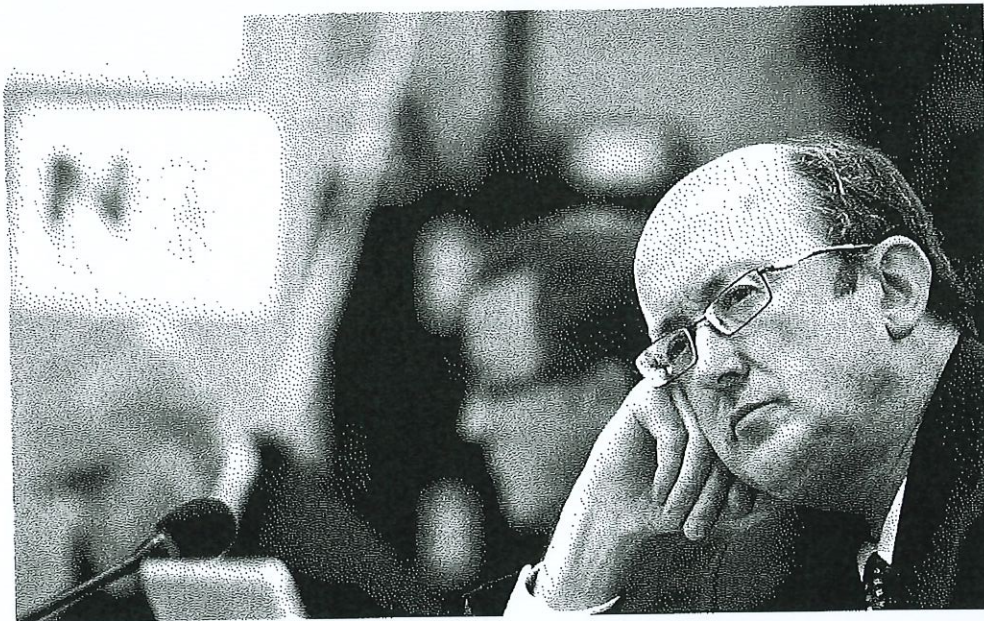
Several senior figures in the legal fraternity confirmed to News24 on Monday night that Kennedy, who previously acted as a judge, had died.

The cause of his death has not been confirmed.

This comes a week before he was meant to appear in the Gauteng High Court in Johannesburg.

News24 had not named Kennedy in coverage of the child rape case because he and his co-accused had not pleaded.

He was arrested in July last year and was released on R20 000 bail.



Advocate Paul Kennedy, accused of child sex trafficking and rape, has died

According to the final indictment, which paints a picture of a well-organised child sex ring, the State alleges that the crimes were committed between September 2020 and July 2021.

The final indictment listed 735 charges between Kennedy and his co-accused.

While most of the new charges in the final indictment related to the unlawful possession, creation and importing or procurement and distribution of child pornography, both the

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Kennedy and his co-accused faced a host of new charges, including rape and sexual assault.

Charges Kennedy faced

According to the final indictment, the advocate was charged with three separate counts of rape.

He was also charged with compelled rape. The State alleged that Kennedy compelled an unknown person to have intercourse with one of the teenage victims without his consent.

Kennedy also faced four counts of sexual assault, charges of compelled sexual assault, sexual exploitation of children, the sexual grooming of children, benefitting of the services of a child victim of trafficking, and financing, controlling or organising the trafficking of a child victim.

According to the State, Kennedy had 25 images of child pornography on his cellphone and laptop. He had also been accused of creating child pornography with at least one of the victims.

According to the summary of substantial facts, both accused were involved in the peddling of child pornography, which, in its various forms, depicted known and unknown minor children.

"The devices of both accused were confiscated and found to contain images and videos of child pornography," the indictment read.

- *Additional reporting Karyn Maughan*

