

**Address by the Deputy Minister of Justice and Constitutional Development,
the Hon JH Jeffery, MP
at the Foundation for Human Rights' Gender Based Violence Programme's
Capacity Building Workshop,
held at the Holiday Inn, Cape Town,
4 February 2019**

Programme Director

Ladies and gentlemen, friends,

High levels of gender-based and sexual violence in South Africa pose significant risks to the health and well-being of those within our borders. It affects not only the victims, but also those around them.

Children are particularly affected to the violence in the home. Researchers, in the journal *Current Biology*, used brain scans to explore the impact of physical abuse and/or domestic violence on children's emotional development.

Previous studies had scanned the brains of soldiers who were exposed to violent combat and it showed the same pattern of heightened activity in two brain areas, which suggests that these children, like the soldiers, become "hyper-aware" of danger in their environment. These children are also more susceptible to later health problems such as anxiety disorders and depression.

Gender-based violence affects us all, it has plagued many of our communities, and left a devastating impact.

Many homes have become places of fear and despair when a woman is battered by her partner, as a few lines from Ghanaian poet, Mariska Araba Taylor-Darko's poem, "*A beating for love*" shows. It reads -

*"Your fist pounded my face
In shock I stood there
Not moving, not screaming
The first time it happened
You said you beat me because you loved me*

*You put the blame on me
I don't remember doing wrong*

...

*I asked you why you did this
"You made me do it" you said
"I love you, that's why I beat you"*

*I never knew love was like this
Maybe no one ever told me.
I thought love was loving and caring,
Laughter and happiness
Not this—a beating for love"*

Of course, gender-based violence can take many different forms – it can be domestic violence, it can be intimate partner violence, or harassment, incest, assault, it can be sexual abuse or sexual violence.

In a study undertaken for us last year by the Gender Health and Justice Research Unit at the University of Cape Town into improving case outcomes for sexual offences, we requested a specific sub-study on the Khayelitsha Magistrates' Court.

The study looked at a number of aspects around sexual offences at the Khayelitsha Court. Firstly, it looked at the age of the complainant - almost half of the complainants (49%) were aged between 13 to 25 years with 25% of the sample being between 13 to 18 years.

Secondly, with regards to the age of the accused, many of those accused (73%) were between the ages of 19 and 35 years (73%) with 8% of those accused being under the age of 17. Most accused were charged with rape (75%) with an additional 6% being classified as multiple or gang rapes.

Regarding the outcomes of each case, the withdrawal rates were high with 46% of the cases being withdrawn and the STR (struck off the role) rate was also notable at 17%.

The high withdrawal rates in sexual offences cases mirror the high number of withdrawals in domestic violence cases. Many victims of domestic violence apply for a protection order against their abusers, but then do not return to court to finalize those orders.

Whether it be domestic violence or sexual offences, there is often an understandable unwillingness to report it.

As one rape victim describes and says:

*“I got in the car and the minute that I closed that car door, I remember thinking to myself: I will never tell a f***** soul about this. I felt so dirty, I felt so disgusting, I felt like it was my fault.”*

We are painfully aware of some women’s financial dependency on husbands, fathers, partners and family members increases their vulnerability to living with domestic violence, rape, incest, abuse and murder.

Others fear retaliation or intimidation by the perpetrator, particularly when the offender is known to the victim or is a member of the victim’s family. Often victims find the criminal justice process unfamiliar and extremely daunting or they don’t understand the various steps in the criminal justice process.

Some fear that they will be treated insensitively or will not be believed. Some will say that the accused has more rights than the victim of the crime.

For a variety of reasons, it can sometimes take a victim years before they feel that they are ready to report the crime.

And this is where each of us here today have a role to play – for example, if we have NGOs in our communities that can know the justice process and inform complainants of where to go, if SAPS members or prosecutors can explain to complainants that services are available and what the different steps in the process entails, it will make a big difference in the way the complainant experiences the process. We must avoid causing secondary trauma at all costs.

Enhanced training, capacitation and improved delivery are key elements.

And one way in which to do that is to identify in which areas there are practical problems with the implementation of the legislation. And then to have events - like this one today - in order to further address some of these issues.

I know that one of the main focus areas of today relates to medico-legal aspects. In a National Forum on the Implementation of the Sexual Offences Act which we convened in 2017, a number of challenges were listed.

Those listed in relation to reporting, interview and statement taking and investigation included issues such as services not being standardised and SAPS members filtering cases instead of registering all cases.

In some instances, intoxicated victims are turned away and sometimes SAPS members are not sensitive to needs of victims. Crime scenes are not properly processed or investigated or investigating officers do not comply with instructions of senior officers and prosecutors. There is a reported lack of proper cooperation between SAPS and prosecutors, and prosecutors not enrolling cases when DNA results are outstanding.

With regards to medico-legal services, in particular, and psycho-social services to victims, the challenges identified included a shortage of forensic staff at health facilities and the training of forensic doctors and nurses not being standardised. In addition, specialised training for all stakeholders on referral systems relating to children is required.

Psycho-social services must be recognised as being a necessity and should run parallel to the legal process and the development of minimum standards for psycho-social services across all trauma facilities is required.

There is also a need to ensure clarification of roles within facilities with specific reference to those officials who provide trauma *containment* services and those who perform trauma *counselling* services. Furthermore, protocols for Thuthuzela Care Centres that are in place need to be followed for performance management and to ensure compliance and there is need for continuous debriefing programmes of staff to be available.

We are continuously working with role-players in the criminal justice system and also with civil society in addressing these and other challenges.

As you know, in November last year a Presidential Summit against Gender-based Violence and Femicide was hosted by the Presidency to develop a roadmap to a South Africa free from any form of power-based violence against female and gender non-conforming persons.

The Presidency nominated our Department to assist as the implementing agency for the Presidential Summit. The Summit Report is currently being developed for submission to the Presidency, by no later than the end of this month.

As you know, FHR is in the process of implementing a National Gender Based Violence programme to address challenges faced by women survivors of GBV in accessing justice in South Africa.

The SEJA Baseline study which was undertaken by the FHR found that 33% of the sample – the sample comprising of 24 000 respondents - agreed that a man can beat his partner if she annoys him. In Limpopo 52% and in North West 51% disagreed that women can refuse to have sex with their husbands. Mpumalanga had the highest percentage of participants (21%) agreeing that a man can beat his partner, with both KwaZulu-Natal and Gauteng not far behind, at 19%.

I want to wish you all a very productive workshop today and I want to thank the Foundation for Human Rights for organising this event.

The aim of today's workshop is to capacitate stakeholders who are crucial during the evidence collection process, and its preservation and use in prosecutions.

I want to also acknowledge the presenters, Dr Steve Naidoo and Adv Lindi Coetzee.

Dr Naidoo is a specialist forensic pathologist with 32 years' experience in forensic medicine and Adv Coetzee is a senior lecturer at the Nelson Mandela Metropolitan University and is the director of Street Law.

As you know, Street Law specialises in presenting participatory, legal, human rights and democracy education.

The NDP's Vision 2030 states that *"in 2030, people living in South Africa feel safe at home, at school and at work, and they enjoy a community life free of fear. Women walk freely in the streets and children play safely outside."*

We must ensure that we spare no effort and that we leave no stone unturned in making this vision a reality. And we cannot wait till 2030 to achieve it – we must do what we can, **today**, with whatever resources we have.

I thank you.