

### Case Study: Violence Against Women in South Africa

#### Context

Apartheid and decades of racial tensions have created deeply entrenched structures of inequality that continue to pervade the economic, social, and political sphere in post-apartheid South Africa. The legacy of institutionalized discrimination has prompted increased attention to addressing racial and gender inequalities from policymakers and government officials. Addressing violence against women is part of the government's commitment to eliminating gender inequalities. The South African government signed several international treaties, including the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Beijing Platform of Action, and also put into place national laws to eradicate violence against women. The strong punishments for violence against women in laws and policies, however, are not yet matched by the attitudes of general society.

Intimate partner violence continues to be a problem in South Africa, especially among the poor. Women who are unemployed and thereby economically dependent on their male partners are much more vulnerable. The lack of housing also inhibits women from getting out of violent relationships. Poverty, stigma associated with intimate partner violence, and lack of trust in the police exacerbate the situation of intimate partner violence.

Sexual violence in South Africa is also a major problem. The country has in fact gained the unofficial title of “rape capital of the world,” with the rate of rape per 100,000 population higher than in any other member country of Interpol. Men are the most common perpetrators of rape, and women are most often the victims. The act of rape is closely connected to a range of male violent and sexual risk-taking behaviors, including having more sexual partners, being physically violent toward a partner, and exchanging gifts or services for sex. All these behaviors, including rape, often are correlated with gender norms that consider women as sexual adversaries of men to be conquered and controlled.

#### Nature and Incidence of Violence against Women in South Africa

- One in four women in South Africa experience physical intimate partner violence.
- Physical and psychological violence are most commonly reported in South Africa. In 81 percent of reported intimate partner violence cases, women report both of these forms of violence.
- Women report sexual violence in less than 20 percent of all reported cases of intimate partner violence. Researchers surmise that this is due to severe under-reporting.
- The Medical Research Council's Three Province Study found a rate of being “physically forced” into sex of 1,300 per 100,000 women ages 18–49 (Jewkes et al., 1999). In the same year, the rate of rape reported to the police was 210 per 100,000 women of all ages.
- Rape largely affects children and young women, with 40 percent of all survivors being under the age of 18 and 16 percent under age 12 (Jinda et al., 2008).

- Friends, neighbors, and acquaintances are the most common perpetrators of rape of adolescents.
- **First sex is often forced:** Studies have reported a prevalence of 10–28 percent, even though this type of violence is not usually reported to the police or parents. Those reporting forced first sex were twice as likely to report a subsequent sexual victimization (9 percent vs. 5 percent) (Dunkle et al., 2004).
- The raping of infants and/or children may also be due to the belief that sex with a child or baby will cure AIDS.
- Immediate consequences of rape include injury, homicide, risk of sexually transmitted infections and pregnancy, and experience of anxiety or trauma.
- Secondary effects of intimate partner violence in South Africa include severe depression and long-term impacts on children being raised in homes with intimate partner violence.

### **Most Affected Groups**

- Women living in poverty
- Unemployed and uneducated women
- Women using alcohol or whose partners use alcohol
- Women with a history of violence in their families
- Youth

### **Community Perceptions of Vulnerability**

- Intimate partner violence is perceived as a private matter that should not be publicized even to seek legal action.
- Many women are scared of rape because they feel physically powerless or anticipate that it would be futile to fight or report rape because of the power imbalance between women and men in South Africa.
- Women are perceived to have a responsibility to behave (dress, move, etc.) in ways that do not provoke desires in men. Women and girls who deviate from expected behaviors are considered shameless and are blamed for the consequences (i.e., rape).

### **Current Interventions**

- The Prevention of Family Violence Act of 1993 was the first-ever national legislation to address domestic violence. However, it was primarily concerned with abuses occurring between spouses. It also lacked a legal definition of domestic violence and contained a vague definition of family violence.
- The Domestic Violence Act No. 116 of November 1996 was developed to overcome the shortcomings of the 1993 Act. It broadened the definition of domestic violence to include provisions for marital rape; violence in both marital and non-marital relationships; and abuse by parents, grandparents, guardians, and anyone co-residing with the survivor.
- Under these two laws, survivors can seek legal action against perpetrators of violence.
- The Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32, 2007 amended the 1957 common law of rape and is now used to prosecute all sexual offenses. This new law criminalizes all non-consensual activity and expands the definition to include all forms of sexual penetration (into vagina, anus, or mouth) regardless of gender. It included a provision for the development of a national framework and multisectoral services for survivors of sexual offenses, including a separate court specifically for sexual offenses.

### **Constraints and Opportunities**

- The first legislative act in 1993 was unsuccessful in curbing violence against women because most women were unaware of the act's existence. The criminal justice system effectively discouraged women from reporting violence by systematically stigmatizing and discriminating against survivors.
- The Domestic Violence Act No. 116 of November 1996 was drafted with the participation of civil society members. It was much more comprehensive in defining domestic violence and setting out legal provisions for survivors of violence. It was supported by many civil society organizations, including women's organizations.
- The criminal justice system has been largely unsupportive of both legislative acts on domestic violence. Women who have experienced violence have been re-victimized by the police and other officials.
- Protection orders and complaints are filed only by a small number of women. Most women who report incidences of violence and file protection orders are employed and economically independent.
- The application process for protection orders is lengthy and complicated. Most women lack the education and knowledge to fill out the forms.
- Many women cannot afford to pay the fees for the protection order forms, even those who are employed.
- The 2007 Sexual Offences Act has made way for improvement in the criminal justice response to rape and sexual coercion, particularly through the establishment of a sexual offenses court—which is staffed by personnel who are trained to deal especially with rape cases—and the use of civil courts, where achieving justice may be less challenging.
- The Sexual Offences Act also includes provisions that recognize the challenges in evidence collection, such as eliminating the need for survivors to testify in front of the accused; allowing for prosecution based on a single witness; and recognizing post-traumatic stress disorder and other psychological consequences of rape as evidence to be considered in addition to or in lieu of forensic evidence.
- Still, many gaps and challenges abound. A 2008 study of the attrition of rape cases in Gauteng Province found that only one in five reported cases actually resulted in a trial. Among the main gaps identified were the need for more training of police and health providers on how to collect forensic evidence and record information. Only two thirds of evidence collection kits were completed, and just half sent to the forensic laboratory. Poor information and evidence collection by police contribute to low rates of arrest and prosecution of perpetrators.

### **Sources:**

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