



LANDSCAPING **GENDER-BASED VIOLENCE** IN NAMIBIA

On 1 August 2018, concerned citizens in Namibia took part in the #TotalShutdown¹, a protest against gender-based and intimate partner violence. Together with activists in Botswana, South Africa and Lesotho, people took to the streets to say “no more” to the violence faced by women and gender nonconforming people.²

This protest is one of many that have taken place in Namibia over the years. These types of protests are often tied to dates on which gender inequality comes to the fore, such as International Women’s Day, which is recognised on 10 December in Namibia. However, on other occasions, they coincide with particularly horrifying events that grab the public’s attention. This was the case with the late Alina Kakehongo, a 24 year old woman who was shot by her ex-partner at her place of work and later died from

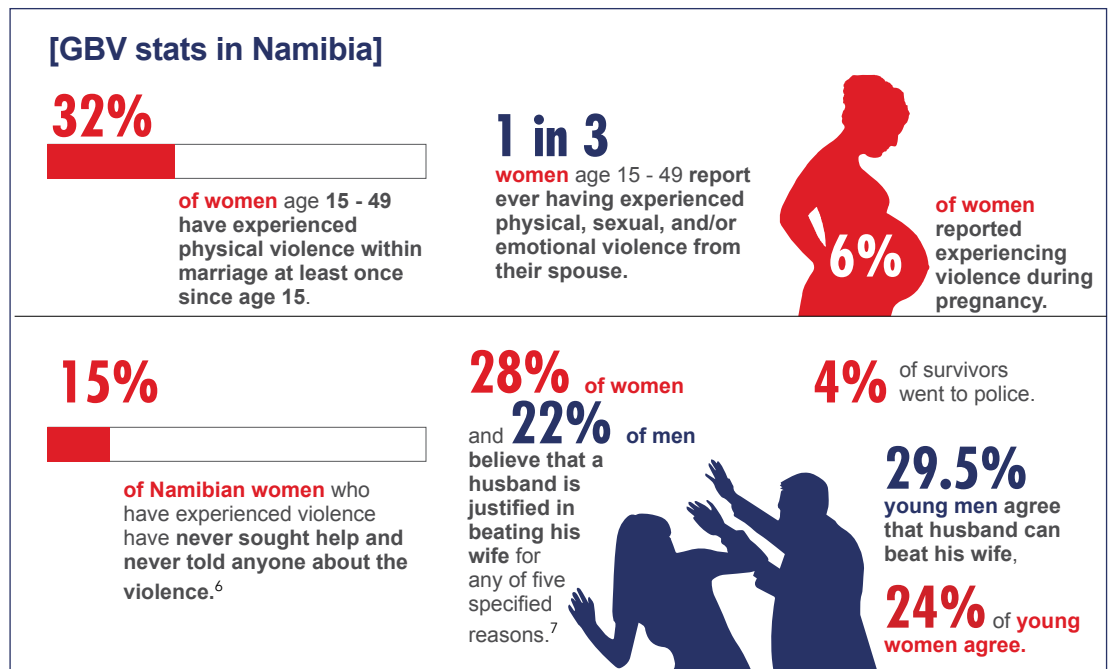
¹ <https://www.namibian.com.na/70134/read/TotalShutdown>

² “Gender nonconforming people” or GNC is a term that acknowledges those people who express their gender identity in ways that are different to what society/culture sees as ‘appropriate’ or ‘correct’.

gunshot wounds on the way to the hospital on the 25th July 2018.³ Kakehongo’s case, unfortunately, is not singular. According to the UN Women Global Database on Violence Against Women, 25% of women in Namibia between the ages of 15 and 49 reported having experienced intimate partner violence at least once.⁴ These kinds of violences are one of many manifestations of gender inequality⁵ in the country.

In the face of the violence faced by women and gender nonconforming people, there are numerous organisations and institutions that provide a variety of resources, ranging from legal protections to counselling services to awareness-raising. Despite the work already being done, incidences of gender based violence appear to be on the rise. The goal of this report is to paint a picture of the gender based violence landscape in Namibia, including the many provisions in place to protect the most vulnerable, and the bottlenecks that prevent relevant policies from working as effectively as they could. Furthermore, the report explores some of the complexities around active awareness-raising, both within and outside of government structures.

Over the years, society has come to understand violence against women as being different from other forms of violence. The incidence of gender-based violence (GBV) - as this form of violence has come to be known - is significantly affected by sociocultural factors that perpetuate certain beliefs about women and the ‘correct’ gender dynamics.



Source: Namibia Demographic and Health Survey 2006-2007

Defining GBV

As ideas about gender have evolved, so too have definitions of GBV. And because policies are ultimately determined by a country’s ‘approved’ definition of GBV, definitions that are problematic or exclusionary are likely to generate policies that have a limited impact for those who are left out.

In 1993, the United Nations (UN) offered the first official definition of GBV as: “any act... that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life”⁸. By emphasising that the violence was motivated by gender, this definition implicitly recognised that gender discrimination stems from existing gender inequality. It also implicitly captured the fact that women and girls

³ <https://www.namibian.com.na/179869/archive-read/Murdered-woman-had-opened-case-against-killer> accessed on 15-10-18

⁴ The Namibia Demographic and Health Survey 2013.

⁵ Others include, but are not limited to, discrimination in the workplace, unequal access to education, and an unequal division of labour in the household.

⁶ Demographic and Health Survey (DHS), 2013, <https://dhsprogram.com/pubs/pdf/FR298/FR298.pdf>

⁷ DHS, 2013, p. 317-338

⁸ United Nations Declaration on the Elimination of Violence Against Women, <http://www.un.org/documents/ga/res/48/a48r104.htm>

are statistically likely to experience this type of violence. However, by specifying that GBV refers to harm experienced by women, this definition excludes the experiences of men and gender nonconforming people. Other definitions, such as one from international health expert Shelah Bloom defines GBV as a term that “capture[s] violence that occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between the two genders, within the context of a specific society”.⁹ While this definition does make space for men who experience GBV, gender nonconforming people are once again excluded.

“The primary targets of GBV are women and adolescent girls, but not only are they at high risk of GBV, they also suffer exacerbated consequences as compared with what men endure.”¹⁰

Understanding GBV as multifaceted means that gender based violence, as a term, encompasses more than incidences of domestic and sexual violence: forced marriage of young girls, human trafficking, female genital mutilation, female infanticide, male rape, violence directed at LGBT¹¹ individuals, verbal abuse, and laws and regulations that limit the rights and access to services of women and girls, are all forms of GBV. Broadening the definition of GBV is crucial, as it widens the scope of interrogation, both when it comes to understanding determining factors and when planning interventions.

GBV's impact

The impacts of GBV are many and complicated. Of course, the survivor of the violence suffers the trauma and indignity of the event, and whatever physical injury that might result. GBV can also result in death, such as in instances of intimate partner femicide. While there are resources available to help those who have experienced violence, gender discrimination towards women and their resulting lower socio-economic status mean that women have fewer options and resources at their disposal to avoid or escape abusive situations and to seek justice. They also suffer consequences to their sexual and reproductive health, including forced and unwanted pregnancies, unsafe abortions and resulting deaths, traumatic fistula, and higher risks of sexually transmitted infections (STIs) and HIV.

The LGBTQIA community is further limited by a distinct lack of legal support. While homosexuality is not officially criminalised in the country, and the human rights of all citizens are meant to be protected, the legal system does not provide support to the LGBTQIA community in ways that are tailored to their experiences. As a result, abuse and GBV in this community can go unreported under the pressure of the prejudice survivors are likely to experience in coming forward.

Beyond the physical impacts of violence, survivors of GBV can experience further trauma even as they are seeking help. Reports of unsympathetic first responders and medical professionals are not unheard of, in Namibia and around the world.

The long term impacts are also concerning: research shows that women who experience GBV are less likely to access educational and employment opportunities. Growing up in a household where violence is prevalent is likely to have a negative effect on children's psychosocial development, and on their own future relationships.¹² It is clear, therefore, GBV erodes the sense of social cohesion and stability needed for a society to function. When the violation of human rights is so ubiquitous, the extent to which a country can be called ‘democratic’ is called into question, where democracy is understood to stem from the protection of human rights for all citizens, regardless of gender or any other identifier.

Demystifying GBV

To understand the extent to which culture and society reinforce GBV, it is crucial to examine the differences between sex and gender. ‘Sex’ is a biological term that indicates whether a person is male or female (or intersex) based on their physiology. ‘Gender’, on the other hand, is a term that refers to “socially constructed roles that shape the behaviours, activities, expectations and opportunities considered appropriate in a particular socio-cultural context for all people ... [and] also refers to the relationships

⁹ Bloom, 2008, “Violence Against Women and Girls: A Compendium of Monitoring and Evaluation Indicators

¹⁰ See UNFPA Strategy and Framework for Action to Address GBV, 2008-2011, p. 7

¹¹ LGBTQIA is an inclusive term that refers to: “lesbian, gay, transgender, queer or questioning, intersex, asexual and allied. It serves to include more people than terms like “the gay community” which is limiting in terms of the sexual identities and orientations it encapsulates.

¹² UN Women, “Consequences and Costs of GBV”, <http://www.endvawnow.org/en/articles/301-consequences-and-costs-.html>

between people, and the distribution of power in those relationships.”¹³ Gender refers to what is considered ‘feminine’ and ‘masculine’ and is therefore socially constructed, rather than something that is fixed. Gender inequality comes from the different values that are placed on masculine and feminine qualities. Conservative gender norms often measure masculinity in terms of dominance and aggression. Femininity, on the other hand, is often associated with emotions, compromise, and subservience. Men and women who behave appropriately according to their gender are rewarded, which further perpetuates beliefs about gender. Those who step outside of these created boundaries - such as women who are aggressive or men who express their emotions openly - are seen as ‘breaking the rules’ of gender. Conservative gender norms which limit the socially acceptable behaviours of men and women play a role in gender inequality by creating a power structure that rewards masculine behaviour and devalues feminine behaviour. These gender norms have an impact not only on the gender landscape, but also on the experience of the LGBTQIA community, as homosexuality and other non-conforming gender and sexual identities are deliberately misunderstood to indicate some sort of ‘confusion’ in an individual. The stereotype of gay men as overtly feminine and lesbian women as overtly masculine not only perpetuates a misunderstanding of the link between biological sex and gender, but also serves to justify discrimination towards the LGBTQIA community for flouting ‘acceptable’ (i.e. conservative) gender norms.

These norms also validate aggression and violence from men by framing them as natural responses rather than learned behaviour. As a result, GBV can come to be understood as something unavoidable, that results from men’s natural proclivity towards violence.

Corporal punishment

Society’s broader understanding of violence must also be considered when trying to understand GBV. When physical violence is understood to be a natural and acceptable occurrence, it has an impact on how we respond to individual cases. This is especially important to understand when it comes to children. Corporal punishment, or using physical force or beatings to punish, in schools and at home has also been linked to GBV. In 1991, the Namibian Supreme court ruled that corporal punishment in schools was unconstitutional. Despite this, many instances are still reported.

If children are taught from a young age that physical violence is an acceptable response to misbehavior, whether actual or perceived, they internalise this message and carry it forward into their adult lives. Research by the Legal Assistance Center (LAC) shows that corporal punishment sends a message that “violence is acceptable, particularly when it is used by a strong person against a weaker one.”¹⁴ Furthermore, children exposed to violence are more likely to use violence as adults.¹⁵

There is evidence that the perceived acceptability of violence does carry into adult life: in 2013, 22% of men and 28% of women in Namibia believed that a husband hitting his wife was justified in one of the following situations: “if she burns the food, if she argues with him, if she goes out without telling him, if she neglects the children, and if she refuses to have sexual intercourse with him.”¹⁶ While there is inadequate research in Namibia to indicate a direct correlation between corporal punishment and GBV, there are definite parallels between the two forms of physical violence. Both are justified by the belief that having socially reinforced power entitles a person to use discipline on those without it, as well as the belief that physical violence is an acceptable form of discipline.

Concerns about corporal punishment in Namibia are exacerbated by the country’s commitment to the United Nations Convention on the Rights of the Child, whose committee states that “[a]ddressing the widespread acceptance or tolerance of corporal punishment of children and eliminating it, in the family, schools and other settings is not only an obligation of States parties under the Convention. It is also a key strategy for reducing and preventing all forms of violence in societies.”¹⁷

Victim Blaming

Some of the factors that contribute to GBV and gender inequality are outlined above. While these are important elements, the impact of society and culture is also felt in the ways in which people react to GBV when it occurs. One of these reactions, and one that is common in cases of GBV, is victim blaming.

¹³ World Health Organisation, 2018, “Factsheet: Gender and Health”, <http://www.who.int/en/news-room/fact-sheets/detail/gender>

¹⁴ Legal Assistance Centre (LAC), “Corporal Punishment”, p. 1-2, <http://www.lac.org.na/projects/grap/Pdf/CCPA19-CorporalPunishment.pdf>

¹⁵ Ibid.

¹⁶ DHS, 2013, p. 288-289

¹⁷ United Nations Convention on the Rights of the Child (CRC), 2006, p. 6, <http://ork.lu/files/Geneva/n8.pdf>

ing. Victim blaming takes place when the victim of the crime or violence is blamed, partially or wholly, for the event. Perhaps the most common of examples can be seen in responses to survivors: questions like “what were they wearing?” or “what part of town were they in?” or “why did they go there if they knew it was dangerous?” often follow disclosures of sexual assault, which is a form of GBV. Questions like this displace blame from the perpetrators of assault, and instead shift attention to the perceived mistakes made by the survivors.

The implication of victim blaming is that violence is largely inevitable, and therefore the onus to expect and prepare for it falls squarely on the shoulders of the survivor. This kind of thinking ties into ideas of toxic masculinity, and especially emphasises (incorrect) ideas about the inherent sexuality of men. Corresponding statements about men, including perpetrators of violence, are often framed around the belief that “boys will be boys”, or “it’s hard for men to control themselves”. As noted earlier in this brief, a culture of victim blaming contributes to the post-event trauma experienced by survivors whereby people (including some of those meant to provide post-trauma services) buy into the belief that the violence they experienced was somehow their fault.

Miniskirts Declared ‘Illegal’ In Namibia?

In February 2013, Police Inspector General Sebastian Ndeitunga was quoted in the media as warning Namibian women to refrain from wearing ‘revealing’ clothing in public, claiming that it amounted to public indecency and indicated a departure from African cultural values of modesty.¹⁸ This came shortly after 40 women were detained in Rundu, reportedly for public indecency. The women were allegedly wearing hot pants that were deemed excessively revealing. Ndeitunga ultimately threatened to arrest others who were dressed similarly, and was quoted as saying:

**“At least put on something, even if it’s short it should cover the essentials.
You can’t walk in town while people can see your buttocks.”**

The implication of these comments is that women appearing ‘indecent’ in public could provoke unwanted advances, and contribute to already high levels of GBV in the country. They also reinforce beliefs about women’s bodies as inherently sexual, meaning that exposing any part of it could be interpreted as an invitation for sexual contact.

While there were many who agreed with this stance, Ndeitunga’s comment sparked a nation-wide debate about rape culture i.e. the various ways in which society normalises sexual assault and rape. Ndeitunga’s comments, it was argued, contributed to a larger societal belief that what women wear can determine whether or not they experience sexual violence. An individual’s choice to sexually assault or rape was the result of the woman’s failure to appear ‘decent’.

Critics further pointed out that these comments were not about decency at all, as the standard of decency was not being equally upheld. While young men regularly wore (and continue to wear) pants that sag to the extent that their underwear was exposed, there was no similar outcry from the police. The stringent public decency rules imposed on women, in this case and in others, is an example of the way women are encouraged to carry the burden of protecting themselves from violence.¹⁹ The alternative, targeting the perpetrators of violence and holding them accountable as a society, is a much rarer occurrence.

Ndeitunga later challenged the media reports, saying that his comments were misinterpreted, and that his concern was a flouting of ‘African values’ by all young people.²⁰ However, the gendered nature of the comments, combined with reports of women facing punishment for their appearance shed light on a troubling double standard in the country.

¹⁸ The Namibian, “Top Cop Says Miniskirts Are Not African”, 2013 <https://www.namibian.com.na/index.php?id=105372&page=archive-read>

¹⁹ Sister Namibia, “(Policing) Sexuality in Africa: The Namibian Miniskirt Ban”, <https://sisternamibia.com/2014/07/24/short-story/>

²⁰ Namibia: Min-Skirt Firestorm Scorches Ndeitunga”, 2013 <https://allafrica.com/view/group/main/main/id/00023012.html>

While there is strong evidence that the cultural factors explored above not only contribute to the prevalence of GBV, but also impede attempts to tackle it, there are still myths that serve to ‘explain away’ or even justify GBV²¹. A non-exhaustive list of these societal myths - stories that obscure the true factors behind GBV - is included below.

Myth	Fact
GBV only includes physical abuse (hitting, punching and pushing).	Physical abuse is just one form of violence. GBV can also manifest as emotional, sexual, verbal, economic and psychological abuse
Women allow themselves to be abused. They could leave their partners if they really wanted to.	Perpetrators use tactics of control and abuse that make it very difficult for women to escape the violence.
Men and women suffer equally from violence	The majority of those affected by GBV, particularly intimate partner violence (IPV), are women and girls. Worldwide, almost half (47%) of all female victims of homicide are killed by their intimate partners or family members, compared to less than 6% of male homicide victims.
Domestic violence is a private family matter, in which the state has no right to intervene. How a man treats his partner is a private matter.	Violence against women is a human rights violation, regardless of whether it occurs in the family or in the public sphere.
A man cannot rape his wife	Rape is defined by an action and not by the identity of the perpetrator or the survivor. Accordingly, any forced sexual intercourse is rape, irrespective of whether the survivor is married to the perpetrator or not. This statement is also grounded in international human rights law definitions, which encompasses all forms of physical, sexual, psychological or economic violence against women.

Another much-touted myth refers to substance abuse as one of the main drivers of GBV. Namibia is ranked 5th on the continent in terms of alcohol consumption in 2016, recording consumption intake of 9,6 litre per person aged 15 and above annually.²² However, while alcohol and drug abuse may exacerbate and contribute to violence, it should not be misunderstood as the cause of violence. While alcohol and drug abuse are often present in domestic abuse situations, they do not always account for incidences of violence. Not all perpetrators of violence use drugs or alcohol and not all who abuse substances are violent.²³ It is more illuminating to instead understand violence as not only an ‘acceptable’ coping mechanism for men in patriarchal societies, but also as a masculine norm i.e. something that is considered natural for men. This deeper understanding of violence as a social norm provides a more meaningful jumping off point for our collective interrogation into the root causes of GBV in this country.

The myths explored above essentially reframe GBV as something reasonable, or at least understandable. However GBV in any form, has no plausible justification. Given the number of myths and misconceptions around gender and GBV, and the ways in which they are reinforced by the very way Namibian society is organised, it is worth examining how Namibia has tackled such a pervasive phenomenon.

First line of defence: The National Plan of Action on GBV

The National Plan of Action on GBV (NPOA) 2012 – 2016 is currently still in effect, and a new Plan is set to be introduced by the Ministry of Gender Equality Child Welfare (MGEWCW) before the end of 2018. The

²¹ University of Pretoria (UP), 2017, “Myths and Facts about gender-based violence”, https://www.up.ac.za/en/student-accommodation/news/post_2584284-myths-and-facts-about-gender-based-violence-21

²² The Namibian, 2016, “10 Biggest Boozing Countries in Africa”, <https://www.namibian.com.na/149467/archive-read/10-Biggest-Boozing-African-Countries>

²³ Roberts 1984, cited in Hagemester et al 2003

plan essentially outlines Namibia's coordinated plan to challenge the prevalence of GBV in the country. It is organised under four major outcomes: reduced GBV as a result of prevention initiatives; improved services for survivors; an increased understanding of GBV in Namibia and; more efficient interventions as a result of improved coordination and monitoring. The framework for the NPOA shows how it is integrated and connected to NDP3 and Vision 2030, which sets out the goal to create a "fair, gender responsive, caring and committed nation, in which all citizens are able to realise their full potential, in a safe and decent living environment."²⁴

The NPOA takes a multi-sectoral, multi-levelled approach and has action points for almost every Ministry and for many other Offices and Agencies (including but not limited to the Council of Churches, the Council of Traditional Leaders, NGOs, and the Media Ombudsman). Although coordination, monitoring and evaluation of the Plan are ultimately the responsibilities of the MGECW, it is advocated by the MGECW that the NPOA belongs to everyone and therefore implementation is the responsibility of all stakeholders across all sectors (government, non-government and private).

Successful GBV prevention and response service requires strong coordination from across multiple sectors. One key response service are the GBV Protection Units envisioned as a one-stop and survivor-friendly service centre for survivors of GBV. The idea is that a survivor of GBV can enter a GBV Unit where they will find: a specially-trained police officer to take statements and investigate the case; a medical doctor to treat any injuries and collect any forensic evidence; and a social worker to provide counselling. In practice however most Units do not function this way. Some Units are co-located with police, or health services (e.g the GBV Unit in Windhoek is located on the Hospital premises) but most operate with service providers working in isolation but collaboratively.

GBV Protection Units are to be staffed by people with specialised training to assist victims of GBV while actively avoiding many of the traumatic experiences victims can experience while reporting an assault, including victim blaming, dismissal, and insensitive information-collecting.

The outgoing NPOA, spanning 2012 to 2016, is a comprehensive document but fails to set out manageable priorities and measurable targets.²⁵ Although the NPOA describes specific activities (all of which are important) very few have been successfully implemented during the extended life of the Plan. It is no secret amongst stakeholders and civil society that the response system has to date not met basic service requirements in order to ensure that the dignity and rights of survivors are protected and upheld.

In order for the NPOA 2019-2023 to have a chance at success, it will need to be prioritised, realistically resourced (with space for fundraising activities), and stakeholders and lead agencies will have to be held accountable. While the NPOA on GBV remains the main coordinating document in Namibia's approach to GBV, legal instruments both present and future need to be drafted (and amended) in ways that are cognisant of both the gender realities in Namibia and the proposed goals of the NPOA.

What do the laws say?

International Law

There are numerous international agreements concerning gender equality (and many other important issues) to which Namibia is a signatory. However, the mechanisms of international law are not as straightforward as they may appear. Article 144 of the Namibia Constitution²⁶ - International Law - is very clear on the authoritative weight of international law:

“ Unless otherwise provided in this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.”

In effect, this means that international laws that cover issues not included in the Constitution or an Act are legally binding. As Namibia has voluntarily made these commitments, it now has the duty to honor them. Below are just some of the commitments Namibia has made under international law.

²⁴ Equality and Social welfare, objective 1

²⁵ LAC, 2017, "Namibia Gender Analysis, http://www.lac.org.na/projects/grap/Pdf/Namibia_Gender_Analysis_2017.pdf

²⁶ Chapter 21, Article 144, p. 62 https://www.gov.na/documents/10181/14134/Namibia_Constitution.pdf/37b70b76-c15c-45d4-9095-b25d8b8aa0fb

i. UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was ratified by the UN in 1979 and became an international treaty in 1981 after 20 countries ratified it.²⁷ In 1992, Namibia ratified CEDAW without any reservations²⁸, meaning that it agreed to all the terms of the agreement in full. Article 2 of the convention “condemn[s] discrimination against women in all its forms” and requires State Parties to actively work to end discrimination against women, and “to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.” CEDAW’s requirements also acknowledge the role of gender norms and prejudices in creating a culture where gender discrimination (including GBV) is prevalent. The convention requires signatories to commit to “achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”.

ii. The UN Declaration on the Elimination of Violence against Women

This declaration builds on the more general commitment to human rights covered in the Universal Declaration of Human Rights²⁹, which outlines every person’s right to equal protection against violence, and affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women.³⁰

iii. The UN Convention on the Rights of the Child

This convention requires States Parties to protect children from all forms of violence, maltreatment or exploitation, including sexual abuse.³¹

iv. The SADC Protocol on Gender and Development

The SADC Protocol on Gender and Development requires member states to enact and enforce legislation prohibiting all forms of GBV, to ensure that perpetrators are brought to justice and to implement educational policies and programmes addressing GBV.³² The protocol defines GBV as “all acts perpetrated against women, men, boys and girls on the basis of their sex which causes or could cause them physical, sexual, psychological, emotional or economic harm, including the threat to take such acts, or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed or other forms of conflict”.

While there are numerous international legal instruments that Namibia is signatory to, their enforceability is questionable because United Nations, while mandated to sanction the international community, rarely does so in cases of gender discrimination. There are, however, legal requirements that Namibia itself has committed to upholding. Parliament (i.e. the National Assembly and the National Council) is responsible for drafting laws that will benefit the people of the country. The following are some of the laws that explicitly refer to gender discrimination in Namibia.

Namibian Laws

Namibian Constitution

The Namibian Constitution is the fundamental law of the country, and everyone in Namibia must comply with its provisions, including those which prohibit discrimination based on gender. Article 10, “Equality and Freedom from Discrimination”, states: “No persons may be discriminated against on the grounds of sex.” Article 14 further states that men and women are entitled to equal rights in marriage.

The Married Persons Equality Act of 1996³³

The Married Persons Equality Act of 1996 abolished the former common law rule that a husband has marital power over his wife’s person and property. The passing of the act means that a husband’s legal

²⁷ UN Human Rights, “Convention on the Elimination of All Forms of Discrimination Against Women”, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

²⁸ Legal Assistance Centre, “Namibia and CEDAW”, 1998, <http://www.lac.org.na/projects/grap/Pdf/cedaw.pdf>

²⁹ United Nations, “Universal Declaration of Human Rights”, https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

³⁰ United Nations, “UN Declaration on the Elimination of Violence against Women”, 1993, <http://www.un.org/documents/ga/res/48/a48r104.htm>

³¹ Convention on the Rights of the Child, CRC/C/OPAC/BEL/Q/1/Add.1, 3 April 2006

³² Southern African Development Community, “SADC Protocol on Gender and Development”, 2008, Part Six, Articles 20-25.

³³ Married Persons Equality Act, 1996, <http://www.lac.org.na/laws/pdf/marriedp.pdf>

position is no longer automatically the “head of the family”.

The Combating of Rape Act of 2000³⁴

The Combating of Rape Act of 2000 defines rape, outlines the procedures in a rape case, and details the responsibilities of prosecutors and police officers in rape cases. It defines rape as “an intentional act in which the perpetrator commits a sexual act under coercive circumstances”, which could include verbal threats. The act also touches on the issue of consent, as makes clear that an intentional sexual act with “a person who intoxicated, asleep, or otherwise unable to communicate constitutes rape”.

Some particularly positive aspects of the act are that it makes provision for rape within marriages and established relationships, and also states that a person can bring a rape charge to court at any time regardless of how much time has elapsed. In this way, the act takes into account not only (incorrect) stereotypes about how and where rape can occur, but also the social barriers that can prevent victims from reporting their experiences for years. The wellbeing of the victim is further protected by provisions that aim to minimise the potential negative impact of the trial, and consider the risk to the victim if the accused were released on bail.

The Maintenance Act of 2003³⁵

The Maintenance Act of 2003 replaces the Maintenance Act of 1963, and in many ways reflects the evolution of the Namibian gender landscape. The act regulates circumstances under which one person is responsible for maintaining another. It could apply between spouses, between a parent and a child, or (less frequently) between a child and a parent.

While the Maintenance Act is technically gender neutral, the reality in Namibia is that the majority of maintenance cases involve mothers claiming maintenance for their children, from the children’s father.³⁶ As such, it is important that the act take into account some of the gender dynamics at play in a parental relationship. For example, the act outlines the punishments for intimidation of a person seeking maintenance, which gives women extra protection from domestic abuse and other forms of violence when they make maintenance claims.

The Combating of Domestic Violence Act of 2003³⁷

The Combating of Domestic Violence Act of 2003 defines domestic violence within a domestic relationship to include: physical abuse, sexual abuse, economic abuse, intimidation, harassment, entering a residence without consent, emotional abuse, verbal abuse, psychological abuse, and threats to do any of the above. According to the act, any person in a domestic relationship can apply for a protection order, and it will be granted providing that the court decides there is sufficient evidence that domestic violence is being committed.

The act defines a domestic relationship as - a relationship in which two people are married, living together in a marital nature though not married (and are of the opposite sex), share a child, or are in an actual or perceived intimate or romantic relationship. A couple is also still considered a “domestic relationship” for one year after the relationship ends. While this encompasses many different realities in Namibia, and allows those experiencing violence despite the official end of a relationship to access the necessary resources, it is notable that people in same sex couples do not fall under the umbrella of a domestic partnership, leaving them vulnerable to domestic violence.

Child Care and Protection Act 2015³⁸

The Child Care and Protection Act of 2015 replaced the very outdated Children’s Act 33 of 1960. Research around child safety conducted by Unicef in 2016 has shown that, in Namibia, 31.5% of girls between 15 and 19 have experienced some form of violence since the age of 15. When it comes to sexual abuse, 20% of learners reported experiencing forced sexual intercourse, and one quarter of learners between 10 and 14 reported experiencing at least one form of sexual violence.³⁹

In the face of these and other statistics, the act was updated to support many of the existing international conventions around the rights of children, and outlines the protection all children in Namibia are entitled

³⁴ https://laws.parliament.na/cms_documents/combating-of-domestic-violence-ff1d58b364.pdf

³⁵ Maintenance Act 2003, <http://www.lac.org.na/laws/pdf/maintenance.pdf>

³⁶ Legal Assistance Centre, “Summary of the Maintenance Act”, 2005, <http://www.lac.org.na/projects/grap/Pdf/summaint.pdf>

³⁷ https://laws.parliament.na/cms_documents/combating-of-domestic-violence-ff1d58b364.pdf

³⁸ Childcare and Protection Act, 2015, https://laws.parliament.na/cms_documents/child-care-and-protection-17faa02c2c.pdf

³⁹ https://www.unicef.org/namibia/na.COP_Legal_Brief_2016_web.pdf

to from violence, exploitation, abuse and trafficking. The act therefore includes protections for children against corporal punishment, sexual violence and child labour. While the new act succeeds at replacing a colonial law that was previously imposed on Namibia, there are notable gaps and weaknesses that are cause for concern.

Given the pervasiveness of the internet and online communication, and the ways in which children have greater online access than ever before, the issue of child safety in online spaces is one that needs urgent attention. In the same Unicef research briefing, “68% of respondents reported having seen sexual content they did not wish to see, while 31% had been sent sexually explicit images of people they didn’t know, and 29% had seen sexual content including children.”⁴⁰

As part of the state’s commitment to child safety, therefore, it is crucial that future legislation takes a proactive stance to the potential for sexual exploitation in online spaces.

The National Gender Policy 2010 - 2020

In the Namibian context, the National Gender Policy (NGP) 2010-2020 refers to GBV as “all forms of violence that happen to women, girls, men and boys because of the unequal power relations between them.” It further notes that “[c]auses of gender-based violence include customs, traditions and beliefs, illiteracy and limited education, unequal power relations, and the low status of women”.⁴¹

The NGP also identifies rape and domestic violence as the two most common forms of GBV in Namibia, and sustains the international acknowledgement of women’s disproportionate experience of violence.

What needs to change first?

The economic climate in Namibia is not one that is flexible to new expenditures, as a combination of low economic growth and low expected revenue puts pressure on the state to address the nation’s demands with limited resources.⁴² As a result, the most efficient response is more likely to involve revising existing policies and resource distribution, rather than attempting to implement completely new responses.

Outlined below are some suggested changes that, if implemented, could have a significant positive impact on Namibia’s GBV response. While this list is in no way exhaustive, these suggestions are understood to be some of the most urgent priorities.

Improve the Protection Order System

- Shortening the servicing time of protection orders and related documents would ensure that victims are able to rely on official and lawful protection sooner, which is crucial especially in situations where danger is immediate. Suggested servicing times are within 48 hours for interim orders, and within 30 days for the conversion of interim orders into final protection orders.
- Ensuring proactive police protection after the protection order is issued, and the effective follow up of complainant’s safety if the final order is not pursued are necessary to ensure that protection orders are effective, and are considered a real resource by victims.

Amend the Maintenance Act

- Strengthening timely compliance with maintenance orders would help to reduce financial dependency on dangerous and unhealthy relationships.

Institute Compulsory Counselling

- Both the Combating Rape and Combating Domestic Violence Acts could be amended to institute compulsory counselling for those served with protection orders and subjects (perpetrators) of GBV cases (including those that have been withdrawn). Doing so would constitute a commitment to engaging with perpetrators, and take a step towards better understanding the societal norms that contribute to GBV.

⁴⁰ Ibid

⁴¹ Ministry of Gender Equality and Child Welfare, National Gender Policy (2010-2020), page 29.

⁴² Brown and Emvula, 2018, “The National Budget 2018-19: Walking the Fiscal Tightrope”, http://ippr.org.na/wp-content/uploads/2018/04/23_Budget_WEB.pdf

Amend the Divorce Act

- Amending the Divorce Act to ease the conditions for divorce would reduce the number of people trapped in dangerous marriages.⁴³ Currently, divorce law in the country requires the spouse requesting the divorce to prove wrongdoing on the part of their partner. Putting the burden of proof on the person requesting the divorce, as well as the complexity and financial cost of current divorce proceedings, makes this legal solution inaccessible to many people, including those in abusive marriages. A draft bill by the Law Reform and Development Commission (LRDC) in 2004 suggests detailed amendments to make divorce law more accessible and effective⁴⁴, but has yet to move forward.

Improve legislation on online safety

- The Electronic Transactions and Cybercrime Bill⁴⁵ (which has not moved in two years) would be the optimal piece of legislation to deal with the potential for violence and exploitation in online spaces. At present, as outlined above, there is a massive legal gap in terms of protecting children from online sexual abuse and exploitation.

Other improvements to legislation

- Instituting a law against coercive compensation would help to prevent perpetrators or anyone else from intimidating complainants into withdrawing cases
- Developing a law to prohibit stalking is necessary, as it is not adequately catered for by existing criminal legislation.

Landmark moments across the years

In the context of the commitments the Namibian government has made, it is necessary to look at some of the landmark moments in the fight against gender inequality.

1990

- 1990:** Independence and accession to the African Union
- 1992:** Namibia ratifies CEDAW
- 1993:** Namibia commits to the Universal Declaration of Human Rights
- 1993:** The first Women and Child Protective Units (WCPUs, now called GBV Protection Units) are opened
- 1994:** Namibia ratifies the International Covenant on Economic, Social and Political Rights and the International Covenant on Civil and Political Rights

1995

- 1996:** Married Persons Equality Act of 1996
- 1997:** First National Gender Policy

2000

- 2000:** Establishment of Ministry of Gender Equality and Child Welfare
- 2000:** Combating of Rape Act of 2000
- 2003:** Combating of Domestic Violence Act of 2003
- 2003:** Maintenance Act of 2003

2005

2010

- 2010:** National Gender Policy (2010 - 2020)
- 2012:** National Plan of Action on GBV (2012 - 2016)
- 2014:** Cabinet approves National Coordination Mechanism for the implementation of National Gender Policy 2010 - 2020

2015

- 2015:** Child Care and Protection Bill amended and passed (but not yet enforced)

⁴³ The Namibian, "Trapped in Marriage?" (opinion piece), <https://www.namibian.com.na/index.php?id=116287&page=archive-read>

⁴⁴ Law Reform and Development Commission, "Report on Divorce", 2004, <https://namiblii.org/system/files/other/report-divorce/lrdc-13-report-divorce.compressed.pdf>

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The timeline above allows us to visualise the focus on gender equality in Namibia. The first decade and a half of independence was marked by a flurry of ratifications and laws that address gender. These were made even more meaningful as they overruled many of the apartheid laws which specifically marginalised women, and black women in particular.

GBV: policies vs the implementation landscape

It is clear that, while amendments are needed, Namibia's legal framework and commitments gives the government a strong foundation to combat violence against women in general, and GBV in particular. However, the effectiveness of these laws can be weakened by uneven implementation. In Namibia, the executive branch of government is responsible for implementing laws that are passed by the legislative branch. This means that individual ministries bring laws into effect. The Ministry of Gender Equality and Child Welfare (MGECW) is the lead agency when it comes to gender and GBV issues, but other ministries have key and clear responsibilities. The Ministry of Health and Social Services (MoHSS), for example, provides social workers to GBV Units. The Ministry of Safety and Security (MSS) is responsible for policing in the country. This includes providing protection orders in cases of domestic violence, and running GBV units.

What is important to note is that MGECW is not the only ministry with key responsibilities when it comes to implementing the policies designed to combat gender inequality. In the past, the expectation seems to have been that 'the gender ministry will deal with gender inequality'. However, the reality is that gender inequality is multi-faceted and manifests in every sphere of social life. As a result, a collective effort is needed to address it. In much the same way that feminism is no longer seen as a women's movement, gender equality is something that is being reimagined as a society-wide priority that must be universally and actively taken up.

Besides unclear mandates and an overwhelming reliance on MGECW, there are other blockages or bottlenecks in the various systems set up to tackle gender inequality. Many of these have been identified multiple times over many years by different stakeholders. The NPOA 2012-2016, for example, is not the first collaboratively produced national document that has a) outlined urgently needed interventions in GBV prevention and response policies, and b) has not resulted in meaningful change. The 2007 and 2014 national conferences on gender-based violence (hosted by the Office of the Prime Minister) were large-scale events that generated very specific proposals to improve prevention and response mechanisms.

One recommendation was that the Ministry of Information, Communication and Technology (MICT) facilitate the establishment of a National GBV Helpline. This action, in cooperation with other government agencies (e.g. MGECW, MoHSS and NAMPOL) would supplement the work of LifeLine/ChildLine, an organisation that currently runs a GBV hotline without any support from government. Another intervention was the establishment of special GBV family courts staffed with specialised prosecutors.⁴⁶ Similarly, in 2014 Cabinet issued a list of 13 key recommendations. Publications that advocate an improved approach to GBV abound in Namibia.

When it comes to implementation, however, there seems to be a significant disconnect. For the purposes of this paper, some of the bottlenecks in most urgent need of attention are outlined below.

A lack of data

Reliable and up-to-date data is a key starting point for both the development of new strategies, and the assessment of existing practices in GBV prevention and response policies. Despite this, there is no national GBV database. This, as noted in many key documents and on many platforms, is a pressing concern.⁴⁷

Basic data from GBV cases - that is disaggregated by age, type of offence and relationship between perpetrator and victim - is needed. This information should be collected by the first responders - police at all stations and at the GBV Protection Units, but also by health workers at all health facilities - and fed into a national database where it can be analysed and disseminated. The lack of a coordinated data collection system means that data is collected haphazardly, and is not always comparable due to different collection methods.

⁴⁶ In this case, the Ministry of Justice has made some progress: there has been significant training around survivor support and court preparation for children. However, implementation of this training has been slow.

⁴⁷ See Concluding Observations on the 4th and 5th country report made by the UN Committee that monitors the CEDAW; Gender Analysis 2017; the Committee which monitors the Convention on the Rights of the Child; Recommendations of the National GBV Conference 2014

As such, it has been recommended that data collecting systems that collect the most basic data be set up at all key service points that do not already collect information, and then be fed into a national database. This database would allow GBV interventions to be effectively planned and assessed. However, managing such a database would be a significant undertaking. As such, careful consideration about the capabilities of various state institutions is needed before the government issues an official mandate.

Financing

While planning and implementing GBV interventions has been likely to be a costly undertaking, the argument has been made that the human and economic cost of GBV is “too high to ignore”.⁴⁸ Despite this argument, the only mentions of GBV in the official budgets of the executive branch remain limited, besides MGEWCW. Ministries that mentioned GBV in Medium Term Expenditure Framework (MTEF)⁴⁹ only included Ministry of Education, Arts and Culture (doing educational programs creating safer school environments), Ministry of Health and Social Services (planning activities under family welfare programme) and the Office of the Judiciary (commitment to improve services to vulnerable witnesses through provision of witness friendly courts).

Despite being included in the NPOA 2012 - 2016, there is still a need for a specific and detailed allocation in the national budget for GBV Protection Units, with a note that designates MoSS and the Ministry of Finance (MoF) as lead agencies.

No strong leadership carrying the GBV agenda forward

As implied by the bottlenecks outlined above, Namibia has a long way to go in terms of achieving meaningful change. As mentioned, a robust system that ensures that perpetrators are held responsible is an important first step. But the question of leadership is one that comes up time and time again.

MGEWCW chairs the GBV and Human Rights Cluster, (which is part of the coordination mechanism of the National Gender Policy 2010 – 2020), and is mandated to implement the NPOA. Its role is to coordinate, monitor and evaluate the implementation process, however in practice MGEWCW has little ability to truly hold other ministries, agencies and offices accountable in ways that will ensure action.

GBV and gender-awareness in Namibia: who leads the charge?

The level of public awareness around gender inequality at large cannot be underestimated as a factor in its pervasiveness. Public awareness goes hand in hand with the public’s perception of the gender landscape, which in itself reinforces public awareness. Actions, in turn, are partly influenced by perception. Publicising new approaches to GBV and gender equality is therefore a necessary step on the road to meaningful change. The question therefore becomes, where are efforts to raise awareness most effective, and who is responsible for leading the charge in those spaces?

It would be incorrect to assume that the main impact of perceptions can be found on a societal or structural level. While it is obviously important to understand the structures that maintain gender inequality, interactions on a micro level are as important to consider. Wherever people interact, gender dynamics are in play. And depending on the space those people occupy, those gender dynamics can have a significant impact on society at large. There are many voices speaking out against GBV, including those of survivors, activists, government institutions, educational spaces and the media. This paper examines the potential impact of some of these avenues.

Government: far from gender-neutral

One example of a space that can have a significant impact on the public’s perception is the government. In Namibia, this term can be understood to cover the executive, the legislature and the judiciary. The people who constitute these state institutions are not immune to societal norms and values, and in many cases play a role in their promotion.

Considering that Namibia ascribes to various international and national legal instruments related to women’s rights and preventing gender based violence, it would be reasonable to assume that the government structures responsible for prioritising and implementing these instruments share a similar sense of gender sensi-

⁴⁸ KPMG Human and Social Services, 2017, p.2 <https://assets.kpmg.com/content/dam/kpmg/za/pdf/2017/01/za-Too-costly-to-ignore.pdf>

⁴⁹ Shejavali, N., & Weyland, M. (2018, March). Women in the Budget: An exploration into Namibia’s gender budgeting processes. Democracy Report, Special Briefing Paper 21. Windhoek: IPPR

tivity, and apply the principles in those instruments to their internal workings. However, this is not always the case, and could explain some of the disconnect between gender policies and their implementation.

The public sphere is an important expression of the gender realities of the country. While gender-based violence may not be a public occurrence in government, it is undeniable that there is a sense of gender discrimination in government spaces. One obvious example is the lack of participation by women MPs in Parliament, despite the recent significant improvement in terms of representation.⁵⁰ Even when women are in positions of power, as in this case, it is not guaranteed that they will have access to similar levels of participation.

While internal party politics certainly influence the level of participation from women MPs, this lack of engagement implicitly reinforces certain societal norms about gender roles and norms. Women in positions of power, while ostensibly able to access new spaces, are not in and of themselves transformative. However, the expectation on women in power to lead the charge on gender equality stands in direct opposition to a crucial reality about challenging gender discrimination: it must be a priority for every member of society. While the impetus for change should ideally come from all with political power, the reality is that the burden of championing gender equality is more often than not deemed a 'woman's job'. There is currently a lack of recent data that sheds light on the gender dynamics within government institutions. However, it cannot be inferred that gender inequality is not a concern. In 2016, the Inter-parliamentary Union (IPU) issued a brief titled "Sexism, harassment and violence against women parliamentarians"⁵¹ which examined the experiences of women parliamentarians from governments around the world to identify some of the most common forms of gender discrimination they experienced.

Sexism, harassment and violence against women parliamentarians

The IPU study was based on the experiences of 55 women parliamentarians from 39 countries spread over five regions of the world: 18 in Africa, 15 in Europe, 10 in Asia-Pacific, 8 in the Americas and 4 in Arab countries. They represented all age groups and most belong to a political party: 58 per cent from ruling parties and 42 per cent from opposition parties.

The brief investigates some of the effects of increased gender parity in parliaments, especially in cases where the increased presence of women is seen as a negative disruption to the status quo. In such cases, women in parliament are met by a variety of responses, ranging from having their legitimacy undermined to blatant sexism. In the context of a 'traditional' (i.e. male-dominated) parliament, these responses are often framed as a normal part of parliament culture, and ultimately serve to discourage women from actively participating in politics.

The results of the study paint a bleak picture: 80% of respondents reported experiencing some form of psychological violence, including sexual or sexist comments, sexist and sexualised representations inside and outside of parliament, and threats of physical and sexual violence. These experiences are direct violations of international human rights, including the right to freely and safely participate in political processes. The study also revealed a lack of structures and mechanisms to respond to these events in a way that metes out justice for victims and perpetrators alike.

What is clear is that governments are not immune to gender discrimination, and therefore have a responsibility to acknowledge and challenge their inherent gender inequality, not only as people who have the power to transform society, but also (in the case of elected officials) because they are duty-bound to serve all citizens. While this process may be uncomfortable, it should also be public in order to demonstrate an active commitment to gender equality, which in turn gives gender policies more legitimacy; it is hard for constituents to accept and embrace policies on gender equality when the government itself does not demonstrate that commitment.

The media: perception vs action

Part of examining people's interpretation of gender dynamics requires an examination of how GBV is

⁵⁰ Weylandt and Wolf, 2018, Parliamentary Questions in Namibia: Asking, Answering and Accountability", https://ippr.org/na/wp-content/uploads/2018/08/Parliamentary-Questions-FINAL_WEB.pdf

⁵¹ See <https://www.ipu.org/resources/publications/reports/2016-10/sexism-harassment-and-violence-against-women-parliamentarians> accessed on 25-08-18

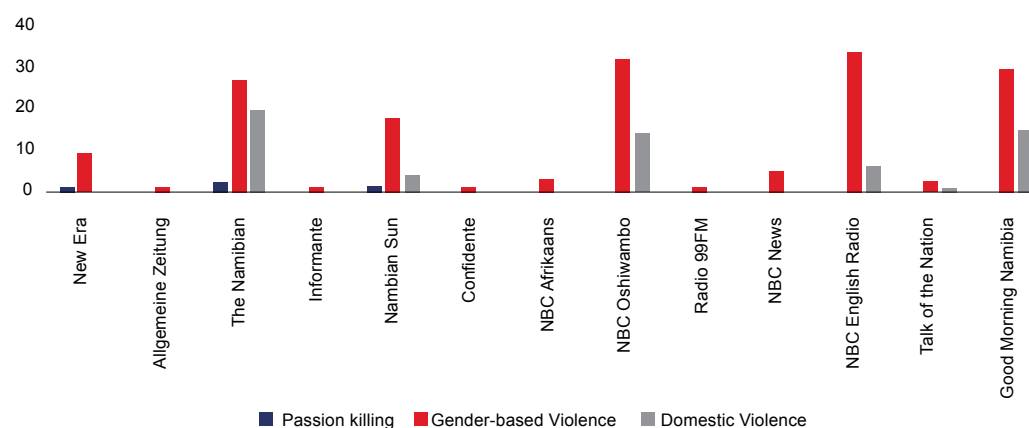
represented to the public. The media - newspapers, radio and television - all play a role in shaping how gender and GBV in Namibia are understood.

Intimate partner femicide (IPF) in this country is often referred to as ‘passion killing’, supposedly to capture the fact that a woman was murdered by her partner in a crime of passion. While this language is presented as normal, it serves to frame IPF as something motivated by volatile emotions on a case-by-case basis. In doing so, this language occludes the societal aspects and toxic masculinity that informs these crimes.

“We need to understand that there is no ‘passion’ in killing. The only passion is within a person, their power and ego. The other person is just brutally humiliated, disrespected and killed.”⁵²

Analysis of GBV media coverage from April 2017 to April 2018 by the Namibia Media Monitoring Agency (NaMedia)⁵³ reflect that “abuse and domestic violence appeared at least 26% of the time throughout print and broadcast media in Namibia”. Furthermore it showed that GBV received more media coverage compared to issues such as child marriages⁵⁴, poaching and cyber-crime. The analysis concludes that in the period studied, the results indicate that coverage of GBV cases in Namibia has increased with the Namibian newspaper covering 29% of GBV news. The results are, however, complicated by the fact that two newspapers - The Namibian and Namibian Sun - recorded ‘passion killings’, ‘domestic violence’ and ‘domestic violence’ is separate categories.

Graph 1: Coverage on Gender Based Violence: April 2017 - April 2018



Source: NaMedia

The analysis from NaMedia paints a picture of overall news coverage, but does not give insight into the framing of this coverage i.e. what values and norms may have informed reporting. The media, far from being an objective overview of events, should strive to both inform and empower the public. This means (among other things) presenting GBV in the context of an overwhelmingly patriarchal society, respecting the needs of victims, and giving consumers a clear idea of the accountability structures in place.

The Namibian media landscape is guided by a self-regulating Code of Ethics that outlines the ethical principles for both print and broadcast media. The preamble of the code of ethics for Namibian media stresses that “the Code is the cornerstone of the system of self-regulation to which the industry has made a binding commitment. Editors, publishers and broadcasters must ensure that the Code is observed rigorously not only by their staff but also anyone who contributes to their publications or broadcasts.”⁵⁵.

Unfortunately, there is no data that examines the relationship between coverage and depictions of gender-based violence and public perceptions about the issue. Similarly, there is no Namibian research that examines the impact of the media on gender norms. As a result, while it can be assumed that higher incidences of GBV see an increase in media coverage, there is no statistical evidence that points to a causal relationship. Further, it is not clear if media reporting has a significant impact on attitudes towards gender norms, or on the public’s awareness of the existing policies and resources dedicated to GBV.

⁵² Confidante, “Rosa Namises: Human Rights Activist with a Passion”, 2012, <http://www.confidante.com.na/2012/12/ro-sa-namises-human-rights-activist-with-a-passion/>

⁵³ Report provided by NaMedia

⁵⁴ While child marriage is part of Namibia’s national definition of GBV, this study excluded it from their definition.

⁵⁵ http://www.mediaombudsmannamibia.org/downloads/codeofethics_online.pdf

Conclusions

The overall finding of this brief is that there is no simple approach to GBV, and that some of the implementation problems we face today are a result of not taking into account the many complexities around gender in general, and gender-based violence particularly. Policies made without a full picture of reality are unlikely to have the intended impact and, given the government's current financial restrictions, the most logical and just approach is one that takes this fact into account. This makes the importance of up-to-date and disaggregated data even more crucial.

As noted by several stakeholders over the years, a meaningful response to GBV does not necessarily require that we 'reinvent the wheel'. Ideal world situations are unlikely to take hold as they tend to be unrealistic. What is needed is an honest assessment, both of the resources available and of past limitations and failures. Only then (and with active and consistent collaboration) can actions be assigned in a way that works.

Many of the structures needed are already in place, but are not efficiently utilised. However, it will mean that the status quo that currently dictates the current gender landscape will need to be actively challenged, including by those who benefit from it. This applies, not only within parliament, but in every sphere in society as gender discrimination is not limited to one arena. For those who benefit from the current gender landscape - cisgender heterosexual men who display 'typical' male characteristics - this is likely to be a challenge, especially as empathy is not always prioritised when boys and young men grow up. Having difficult conversations about gender, creating platforms for survivors to speak safely, and normalising conversations about gender equality are all important steps that need to be taken. Policies and amendments aside, guaranteeing the human rights of every Namibian requires that we humanise the conversation about GBV and those most vulnerable to it.

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About Democracy Report

Democracy Report is a project of the IPPR which analyses and disseminates information relating to the legislative agenda of Namibia's Parliament. The project aims to promote public participation in debates concerning the work of Parliament by publishing regular analyses of legislation and other issues before the National Assembly and the National Council. Democracy Report is funded by the Embassy of Finland.

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