

BENEATH

THE SURFACE

WOMEN'S STRUGGLES AND RESISTANCE TO VIOLENCE IN
MINING-AFFECTED COMMUNITIES



ACKNOWLEDGEMENTS



Our deepest thanks go to the leaders of WAMUA and the countless activists across the country, whose unwavering persistence, strength, and courage continue to sustain our communities. We are truly grateful for WAMUA and the many women who, despite their own personal struggles, consistently show up in remarkable ways for their communities.

We are especially grateful to Mam Nester Ndebele and Mam Maureen Sewela for their steadfast leadership, and to Mpho Nkawana, Qedusizi Masina and Refiloe Mofokeng their unwavering support. Despite the many challenges that social movements face—navigating a country fraught with inequality, gendered struggles, and systemic barriers—WAMUA has created a space for learning, growth, and the collective imagining of a world free from violence, a world that dares to live just alternatives.

We would like to express our gratitude to Keamogetswe, who served as one of the Senior Researchers and Lead Authors alongside the leaders of WAMUA for this report. Her unwavering dedication, leadership, and expertise were pivotal in steering the research process and ensuring the successful completion of this report. Keamogetswe collaborated closely with WAMUA activists throughout the writing process, with a strong focus on empowering the leaders and enhancing their skills. Her intention was not only to address the painful topics within the report but also to honour and celebrate the resilience and strength of WAMUA.

To the MACUA leadership, thank you for your courage in engaging in deeply uncomfortable conversations, your commitment to continuous learning and unlearning, and your willingness to take accountability. Acknowledging our collective roles in the problem while remaining fully dedicated to combating GBV in our communities is a testament to your leadership. We are grateful for your efforts in fostering allyship.

We would also like to thank Sheena Swemmer, Basetsana Koitsiwe, and the entire team from the Gender Unit at the Centre for Applied Legal Studies (CALS). Your collaboration and guidance in shaping the GBV workshops across the country have been invaluable. These workshops have played a critical role in deepening our understanding of the systems and institutions that impede women from fully realising their rights. Thank you for holding these spaces with care, mindfulness, and empowerment. A special note of appreciation to Dr. Swemmer for drafting the chapter on the legal framework and barriers to justice surrounding gender-based violence in South Africa for this report.

A special thanks to Phyllia Ngoatje, Khosi Nomnqa, Lorraine Kakaza, Lebohang Lesenyeho, Lindobuhle David Nene, Malefa Dlamini, Aunty Sheila Chochrane and Fana Ndlovu, whose commitment went beyond logistics. You spent long hours on the road and in the field, facilitating workshops and tirelessly capturing data, making calls, and following up. Your work—though often unseen—is the foundation upon which true change is built. We deeply appreciate your dedication to the "nuts and bolts" of this project. We also extend our heartfelt thanks to Comrade Shamim Meer for her invaluable review, editing, wisdom, contribution to the final chapter – “A call to action to civil society and other stakeholders to imagine a multifaceted approach to tackling gender-based violence in South Africa” and kindness in shaping this report. Your contributions, often made under tight and shifting deadlines, have been crucial to this project.

To Nomshado Lubisi, our deepest gratitude for your brilliance and consistency throughout the project. Your tireless work in bringing the report to life in these pages, under immense pressure, has not gone unnoticed. Thank you for your commitment and attention to detail.

To Christopher Rutledge, thank you for your invaluable insights, encouragement, and steadfast leadership throughout this project. Your guidance has been instrumental, and we are deeply grateful for your support.

Finally, our immense thanks to MACUA's funding partners, particularly the Heinrich Böll Foundation, ActionAid and SOMO. Your steadfast support, feedback, and solidarity have been instrumental in bringing this work to fruition. Your contributions have not only provided the necessary resources but have also helped build and further solidarity with organisations nationally, regionally, and internationally. This work would have been a lot more difficult without your invaluable partnership.

With gratitude,

Fatima Vally
MACUA/WAMUA Advice Office

TABLE OF CONTENTS

Introduction	1
Understanding mining and violence in South Africa	
Historical Context and Present Challenges	
Participatory Research for Movement Building	
Brief 1: Access to Health and Dignity.	8
Intersecting Threats of Gender-Based and Obstetric Violence in Mining Communities	
Findings	
Why is this happening?	
What should be done?	
Brief 2: Unemployment and Education in Mining-affected Communities	15
Findings	
Why is this happening: Understanding the connection between Unemployment, Education and GBV in mining-affected communities	
What should be done?	
Brief 3: Violence in the Community	20
Findings	
Why is this happening: Understanding the Roots of GBV in Mining-Affected Communities	
What should be done?	
Brief 4: Protection and Safety	27
Findings and Discussion	
The legal framework and barriers to justice around gender-based violence in South Africa	30
The Constitution	
Laws relating to gender-based violence, such as sexual offences	
Laws relating to intimate partner violence	
Laws relating to sexual harassment	
Laws relating to obstetric violence	
A call to action to civil society and other stakeholders to imagine a multifaceted approach to tackling gender-based violence in South Africa	37

INTRODUCTION

During 2022 and 2023, women activists of WAMUA¹ (Women Affected by Mining United in Action) in Gauteng, Limpopo, Northern Cape and North West Provinces of South Africa listened to and recorded the experiences of women from 14 different communities where mines operate. The activists spoke with women on the ways gender-based violence (GBV) and obstetric violence (violence experienced by women in healthcare facilities) impact women and on possible links between these forms of violence and mining and mineral resource extraction.

This report draws on our interviews with women in these vulnerable communities who face daily challenges in surviving oppressions and exclusions of an unequal society.

The Report is made up of:

- 4 briefing papers developed in collaboration with 30 WAMUA activists. The briefing papers explore how women navigate access to health and dignity, employment and education, as well as how they navigate violence in mining-affected communities and the avenues of protection and safety available to them. The briefing papers cover:



- A reflection on participatory research and building movements
- The legal framework and barriers to justice around gender-based violence in South Africa
- A call to action to civil society and other stakeholders to imagine a multifaceted approach to tackling gender-based violence in South Africa.

[1] WAMUA is part of Mining Affected Communities United in Action (MACUA).

The mining-affected areas where WAMUA activists conducted interviews

Ekurhuleni - Gauteng	Carletonville - Gauteng	Kagung - Northern Cape	Orkney - North West	Lephalale - Limpopo
Sebokeng - Gauteng	Magojaneng - Northern Cape	Springbokpan - North West	Sekhukhune - Limpopo	Mokopane - Limpopo
Meyerton - Gauteng	Kuruman - Northern Cape	Kraalhoek - North West	Polokwane - Limpopo	

Understanding mining and violence in South Africa

GBV in communities affected by mining takes place within the broader violence of an economic system of capitalist extractivism². This system allows mining companies to make huge profits through exploiting and oppressing black people and causes the underdevelopment of the communities in which mines operate.

This economic system dominates the South African economy and prioritises profit for a few people over the well-being of the vast majority of people across the world.

Women in communities where mines operate face environmental degradation, economic exclusion and gendered violence on a daily basis. Women in these communities have to navigate and negotiate the dangerous mix between patriarchy and power. It is important to understand i) that this results from systemic exclusion, inequality and exploitation and that the mining sector contributes to this; and ii) that women can develop and strengthen their agency and their movements, so that they may take actions to stem the tide of violence they face.

Women activists in these communities are vulnerable to more brutal forms of bodily harm as compared with male activists. These women are human rights defenders. They defend their land and their environment.

[2] The Sage Fund, 2023. Building Power in Crisis: Women's responses to extractivism, The Sage Fund. Available at <https://www.sagefundrights.org/gender-and-extractivism> (Accessed on 31 October 2023)

Historical Context and Present Challenges

Capitalist extractivism has its roots in the violence of colonialism and the spread of capitalism.

Colonialism tore apart African societies. Colonisers grabbed the land of indigenous people, turned them into labourers in mines and plantations and changed how Africans organised themselves in their communities and homes. They also changed how women and girls were viewed. Patriarchal ideas of the colonisers saw women and girls as possessions, as things to own. Patriarchy is a social system where men are seen as superior and as the holders of power, while women are excluded, considered inferior, and as the property of men to be controlled and exploited.

Within this system the earth, its resources and all forms of nature are also seen as property to be controlled and exploited by men. Domination of women and nature through extractivism follows from this way of viewing women and nature.

Rustenburg, in the North West province, is a mining-affected area that shows the relationship between mining and violence. In 2015 Doctors Without Borders, found that one in four of the 800 women they surveyed in this area had experienced rape in their lifetime³. The high rate of GBV correlated to the disproportionate number of males to females in the area. In 2011, the number of males to 100 females was 121.8⁴. The disproportionately high ratio of males to females in the area is the result of large numbers of men who came into the area to look for work in the many mines that were starting up in the area.

Today, there are many areas like Rustenburg with more men than women due to the high levels of migration to mining towns across South Africa.

Very few women in these areas are able to find employment in mines and are forced into forms of work that make them vulnerable to abuse and violence. Women who are able to find employment in the mines are subject to gendered violence because of patriarchy and power.



[3] Doctors Without Borders. 2019. Drivers for survivors: changing lives in Rustenburg, Doctors Without Borders, 24 September 2019. Available at <https://www.msf.org.za/news-and-resources/latest-news/drivers-survivors-changing-lives-rustenburg> (Accessed on 1 November 2023)

[4] Eunomix research (n 4 above)

PARTICIPATORY RESEARCH FOR MOVEMENT BUILDING

Feminist Participatory Action Research and Leadership is a research method which aims to empower women. It supports women to raise their voices, to take action, and to work together to change oppressive situations.

Adapted from the Asia Pacific Forum on Women, Law and Development (APWLD)⁵, this approach aims to ensure that women in mining-affected communities, particularly those affected by GBV, are central to the design, shaping, and implementation of the research process, and that their insights inform subsequent actions.

Purpose of Feminist Participatory Action Research and Leadership

The main objective of employing Feminist Participatory Action Research and Leadership in WAMUA's GBV project is to bring about systemic and structural changes. By this we mean a shift in the oppressive systems of patriarchy, economic exploitation, and social inequalities all of which cause and sustain GBV.

In this approach participants actively contribute to defining the research agenda, engage in collecting information and in analysis, and influence the outcomes of the research. This approach ensures that the research is firmly grounded in the real experiences of women, with the ultimate aim of dismantling the oppressive structures that sustain GBV.



[5] APWLD: Feminist Participatory Action Research accessed on 3 March 2024 – <https://apwld.org/feminist-participatory-action-research-fpar/>

Key Principles of Feminist Participatory Action Research and Leadership include:

- 1 Structural Change:** The aim is to bring about structural changes that women in mining communities see as essential for their safety, dignity, and human rights.
- 2 Amplification of Women's Voices:** Women's leadership drives the research process, and women are key contributors to dialogues and policy discussions on GBV. Women are at the centre of the research process as experts of their own lives.
- 3 Community Ownership:** The women most directly affected by GBV shape the research, ensuring that it remains relevant to and owned by them.
- 4 Intersectionality:** The diverse experiences of women are taken into account, acknowledging how different forms of discrimination, exclusion, and marginalisation contribute to GBV.
- 5 Shifting Power Dynamics:** The approach challenges traditional power imbalances between the researcher and the subjects, while also addressing the gendered power dynamics that perpetuate gender-based violence (GBV).
- 6 Fostering Collective Action:** The process is collective, aimed at building solidarity and empowering women in mining-affected communities to take collective action for long-term structural change.
- 7 Capacity Building:** The process involves capacity building at every stage, recognising that all participants – including branch members and external researchers/experts – are engaged in a mutual learning process.

Background and Relevance

The Feminist Participatory Action Research and Leadership approach closely aligns with the values and objectives of WAMUA, especially in our work of addressing GBV.

From 2020 to 2022, WAMUA branches received a distressing number of requests and complaints regarding gender-based violence. These incidents ranged from the sexual harassment of minors to continuous physical and psychological abuse, with women facing constant violence in households, often at the hands of intimate partners or other males they shared the space with. Branches made efforts to help individuals find safe places, but there was an urgent need for more proactive and sustained support.

To strengthen the capabilities of WAMUA and MACUA activists, the MACUA/WAMUA Advice Office (MWAo), in collaboration with the Centre for Applied Legal Studies (CALS), initiated a series of GBV workshops across 22 branches. These workshops focused on domestic violence, harassment, and the process of reporting sexual offences. In addition to empowering women to navigate the often overwhelming and unwelcoming legal procedures, the workshops also addressed women's experiences of obstetric violence within the public healthcare system, potentially laying the groundwork for a class action lawsuit.

The training focused on the process of reporting a sexual offence to the South African Police Service (SAPS), providing insights into monitoring criminal cases from the initial investigation stage to prosecution, conviction, appeal, and probation.

Each training session lasted 3.5 days and covered the following topics:

Day 1: Training on the legal framework for harassment and reporting sexual offences.

Day 2: Training on the legal framework surrounding domestic violence.

Day 3: Training on the legal framework concerning obstetric violence.

Day 4: A half-day training session on conducting surveys, mapping the prevalence and various manifestations of GBV in communities, and identifying available victim empowerment services.

The initiation of the survey in 14 branches

The workshops concluded with the initiation of a public survey conducted by 14 of the 22 participating branches.

Two surveys were conducted to gather information on different aspects of violence and abuse. The first survey aimed to document cases of domestic violence, sexual harassment, and sexual assault. It also assessed the effectiveness of institutions that support and serve women who have experienced abuse. In total, 860 surveys were completed and collected for analysis.

The second survey focused specifically on obstetric violence. It investigated healthcare facilities and evaluated both the services provided and the conduct of healthcare personnel in upholding the rights of women and birthing individuals. A total of 959 surveys were completed and collected for further review.

In 2023, WAMUA, working with the senior researcher Keamogetswe Seipato, collected and analysed data from the mapping surveys. This process drew on Feminist Participatory Action Research and Leadership approach and included:

- A two-day online monthly training on data analysis.
- A two-day online monthly training on writing techniques.
- A three-day in-person writing retreat where working groups worked on developing the briefs that this report consists of.

The project is deeply rooted in the Participatory Action Research and Leadership approach, which is designed to challenge entrenched power dynamics by actively involving in the research process those most directly affected.

This approach serves as a powerful catalyst for collective inquiry and action, empowering women in mining communities to analyse the underlying causes of gender-based violence and to develop and implement effective strategies for change.

WAMUA's aims with this project include:

- **Building Capacity and Skills:** The project has and continues to enhance the capacity and skills of women within mining communities, equipping them with the necessary tools for advocacy and leadership in the fight against GBV.
- **Generating Knowledge and Resources:** The research has generated valuable knowledge, data, and resources that support women's movements against GBV.
- **Shaping Advocacy:** This project has created spaces and opportunities for women in mining communities to engage in advocacy, influencing laws, policies, and practices related to GBV in the mining and extractive sector.
- **Strengthening the Movement:** The project fosters collective action, strengthening the broader movement to end GBV and promote structural change in the mining industry.



Access to Health and Dignity Intersecting Threats of Gender-Based and Obstetric Violence in Mining Communities



Introduction

This paper explores intersecting threats of Gender based and Obstetric Violence in Mining Communities. Insights within this paper stem from interviews by WAMUA activists with women community members within 14 communities affected by mining, through participatory research.

Obstetric violence (OBV) is a form of violence women experience at clinics and hospitals during pregnancy or childbirth. The concept of OBV emerged in Latin America and Spain in the 2000s.⁶ Since 2007 OBV has been recognised as a form of criminal violence in Venezuela.⁷ In South Africa, work and support for OBV as a form of GBV, is starting to gain momentum. A 2020 report by the Commission on Gender Equality on forced or coerced sterilisation in public healthcare facilities brought OBV into sharp focus. At the 2022 Presidential Summit on GBV and Femicide, obstetric violence was recognised as a form of GBV.⁸

Our Findings

An alarming number of women interviewed experienced a form of obstetric violence in public health care facilities. The women interviewed are poor and working-class. They are unemployed and rely financially on government provided social grants or on a partner/family member who is employed. Their socio-economic standing means that they rely on free government run public health care services.

Many faced physical or verbal abuse during labour at government run health-care facilities. Many went through medical procedures without being able to ask questions about these procedures.

Obstetric Violence in public health care

Of the **959** women who responded to questions relating to OBV:

- **49%** said that their genitals were touched without their consent by a medical practitioner or a health practitioner during labour.
- **43%** said that they faced physical force at the hands of medical staff, with the highest number of these incidents taking place in Kuruman in the Northern Cape.
- **33%** said that they faced verbal abuse, with the highest number of these incidents taking place in Kuruman, Northern Cape.
- **47%** said that they could ask questions about their medical procedures.
- **24%** said that medical students watched them give birth with their consent violating their consent and privacy.

[6] Chadwick, R. 2017. Ambiguous subjects: Obstetric violence, assemblage and South Africa birth narratives, *Feminism & Psychology*, 2017. Available at https://www.embrace.org.za/wp-content/uploads/2020/11/Chadwick_2017_Obstetric-Violence-in-South-Africa.pdf (Accessed on 3 November 2023)

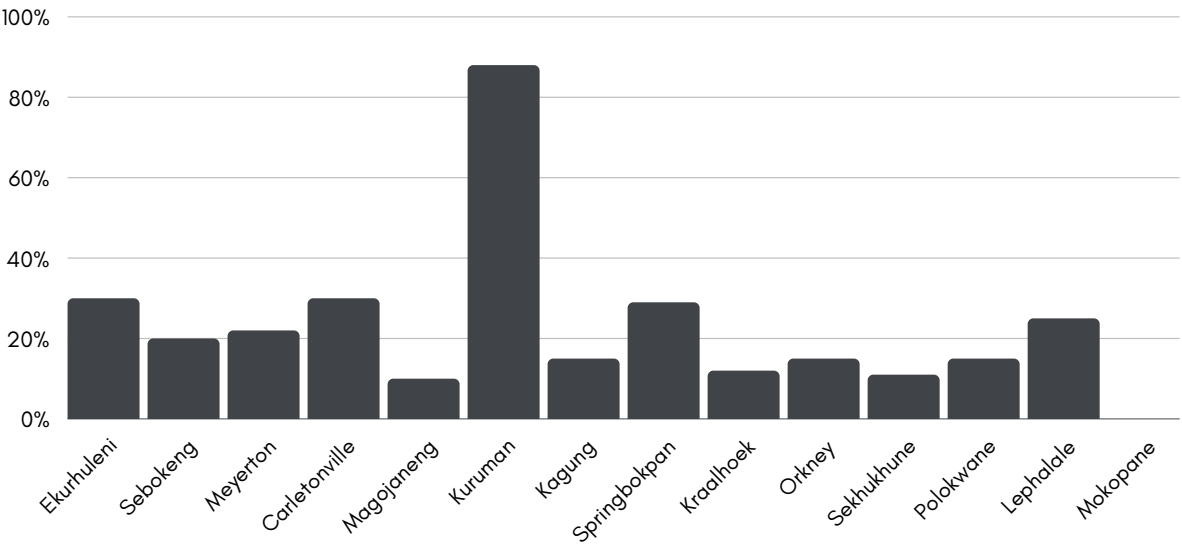
[7] Chadwick, R. (n9 above)

[8] Swemmer, S. (n1 above)

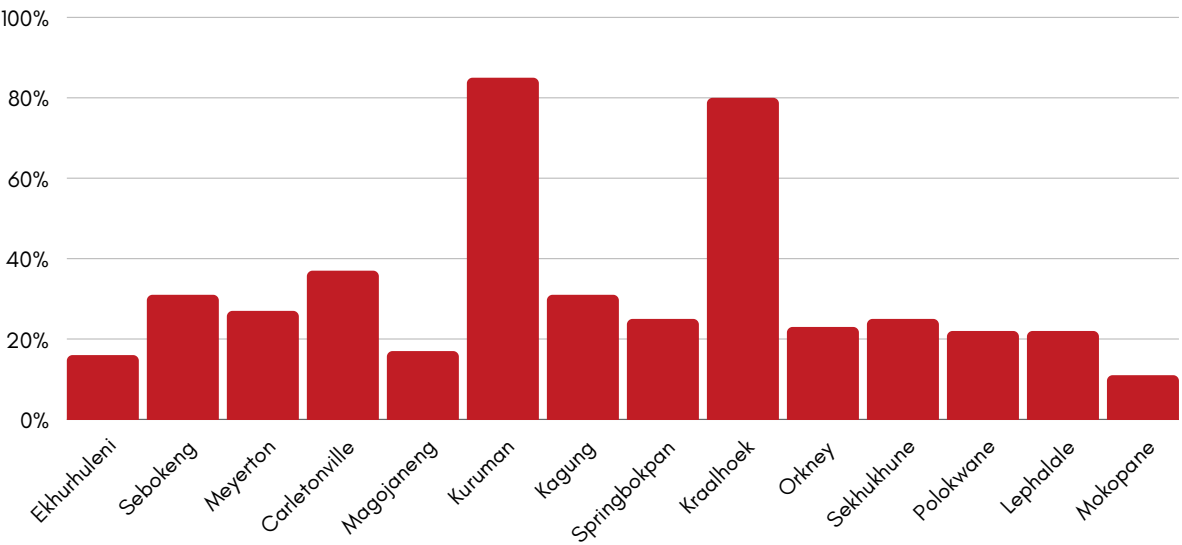
WAMUA activists shared that the lack of respect from health practitioners undermines the dignity of women. Many lamented their lack of knowledge on how to hold health practitioners accountable for the violations committed against them.

Only 286 people (30%) of the 959 respondents said that there was availability of mental health facilities such as counselling services in their area. Counselling services are often a need for women who experience pregnancy and birthing related trauma and loss.

People who experienced physical or verbal abuse from medical staff during labour



People who could ask questions about procedure



One activist shared a personal story of complications during their pregnancy that warranted hospital admission for two weeks. While sedated and not aware of their bearings, they were told that giving birth might be dangerous, and were forced to sign a form without any explanation of what they were signing. The activist shared that when they were conscious, they were bleeding and gave birth to a stillborn. When they enquired what happened and why they were bleeding, they were told that they had signed a termination form. The activist also shared that while they were in the hospital for those two weeks, they were never taken for an ultrasound to verify the health of the baby. The activist who shared this personal account is like many others who have faced OBV and have not seen any justice.

Why is this happening?

The pain that the data highlights can be transformed into power to fight for justice.

To engage in this fight, we need to ask why is this happening, and what can be done to address these injustices?

Barriers to accessing health care

The most significant barrier to accessing healthcare in South Africa is an economic one. South Africa's healthcare system is exceptionally unequal and two-tiered. The majority of the population relies on the public healthcare system. In contrast, only 27% of the population has access to private healthcare. The differences between private and public systems are stark. The private is well funded through member contributions. The public healthcare system is significantly underfunded with clinics and hospitals understaffed, under-resourced, and overwhelmed by the needs of a growing population.

South Africa's history of apartheid and the ongoing legacy of economic inequalities lead to acts of every-day violence for black working class and poor communities – through unemployment, and the lack of incomes to feed, house and clothe families and through unequal healthcare. Access to adequate health care services depends on a person's race and how much money they have. Women, particularly in rural and mining-affected areas, are more likely to deal with inadequate healthcare services and with the violence this results in. For most women in mining affected communities' health facilities are long distances away from their homes.

Intersecting Violences

WAMUA activists interviewed women who experienced violence from health practitioners, men in their homes and communities, and mining companies. The women described experiencing multiple forms of violence.

[9] Rensburg, R. 2021. Healthcare in South Africa: how inequity is contributing to inefficiency, WITS Latest, 7 July 2021. Available at <https://www.wits.ac.za/covid19/covid19-news/latest/healthcare-in-south-africa-how-inequity-is-contributing-to-inefficiency.html> (Accessed on 6th November 2023)

Conditions for gendered violence are created by ideas of “good femininity”, ideas that a woman's body is an object she does not own and control, and that anyone can do anything to a woman's body.

The norms imposed on marginalised women in public institutions that they should be “good patients” when giving birth are similar to social norms imposed on women in broader society that women should be obedient and docile. Even while experiencing severe labour pains, women worry that if they are seen as a “bad” or complaining patient they will experience abuse or violence at the hand of health professionals¹⁰. Women who assert their bodily autonomy and scream while giving birth are told to be quiet in abrasive and abusive ways.

WAMUA activists and the women they surveyed describe violence by health practitioners and violations of their consent at clinics and hospitals as forms of harm, similar to the violations they face during instances of sexual violence or when a mining company coerces a community into signing documents that result in the company taking over their land.

The same social norms that force women to keep quiet or feel shame about the ill-treatment or discrimination they face at healthcare facilities, also prevent women from reporting cases of GBV.

Women do not report cases because they feel they will not be supported, believed and because they will be blamed by others around them. WAMUA activists shared that they do not report cases of violence because of the lack of access to information about their rights and how to access justice for the violence they face, whether this violence takes place in their homes, at a hospital, or as a result of mineral resource extraction.

The pain, frustration and hopelessness from facing these multiple forms of violence is a crushing and profoundly isolating experience for women. Often these multiple forms of violence are experienced at the same time.

Service delivery gaps from non-compliance with Social and Labour Plans

Since mining companies are required to contribute to economic development in the areas where they operate, government often relinquishes its responsibility for delivering basic services, placing this in the hands of mining companies. However, mining companies are not interested in providing services since providing services is not profitable, and instead means companies must spend some of their profits.

[10] Chadwick,R. (n9 above)

To start its operations, a mine is required to apply to the Department of Mineral Resources and Energy and include a Social and Labour Plan (SLP) in its application^[11]. SLP commitments are intended to redress the historical and contemporary injustices faced by communities as a result of mining operations. They commit mining companies to contribute to the social and economic welfare of the employees and the community where they operate, in exchange for the right to mine in that area.

Once the application is approved, the SLP becomes binding, and the mining company must deliver on its commitments to meet the conditions of its mining licence. The SLPs are meant to work with other government development programmes such as local governments' Integrated Development Plans. So, if a mining company's SLP includes building a clinic as part of its commitment, the local government will focus its resources on delivering other services in that community. However, often mining companies do not honour their commitments and the Department of Mineral Resources and Energy does not enforce the implementation of the SLPs. So, if a mining company does not deliver on its plan the community will be without a clinic or other essential services that a mining company failed to deliver on.

Added to this many mining companies evade taxes, either through misreporting profits, through transfer pricing, or other forms of financial misconduct. When companies do not pay taxes, the government loses out on funds that could be contributing to health, education and other public services.

In areas like Emalahleni where a large number of coal mining companies operate, local government has been open to working with activists to hold mining companies accountable for the environmental destruction they cause and for delivering on their SLPs, but this has not yielded positive results. Instead, the Emalahleni Municipality is not functioning efficiently, and services are not delivered consistently.

What should be done?

WAMUA interviews highlight a disturbing prevalence of gender-based and obstetric violence (OBV), particularly against women in vulnerable socio-economic positions in mining-affected communities. There is need for a coordinated effort to address these issues at their roots and to create a future where women in mining areas can live with dignity, health, and justice.

The voices and experiences of women in these communities must be at the forefront of these efforts. Government, healthcare institutions, civil society, and communities need to work together. A comprehensive approach should involve healthcare, education, and legal accountability.

Only by working together can we break down the structures that cause violence and inequality.

[11] Centre for Applied Legal Studies. 2022. Social and Labour Plan Mining Community Toolkit, Centre for Applied Legal Studies, 10 May 2022. Available at [\[10\] Chadwick, R. \(n9 above\)](#). (Accessed on 6th November 2023)

WAMUA activists propose several critical actions by government, health care institutions and civil society working together to address these issues:

- **Ensure safe and respectful care for women** in both private and public health institutions, including adequate facilities, resources, and professional training to prevent obstetric violence.
- **Provide accessible counselling services** for women who have experienced trauma or loss due to medical malpractice and establish clear mechanisms for holding healthcare practitioners accountable for obstetric violence.
- **Develop and implement educational programs** for women in mining-affected communities about obstetric violence, their rights, and available channels for seeking justice and support.
- **Strengthen collaboration** among healthcare institutions, government bodies, NGOs and movements like WAMUA and mining companies to enhance healthcare services, to ensure mining companies comply with Social and Labour Plans and ensure mining companies contribute positively to the socio-economic development of affected communities.
- **Advance and enforce policies** that protect women from gender-based violence (GBV) and obstetric violence (OBV) in healthcare settings, including revising existing healthcare policies to be more inclusive and sensitive to the needs of women in mining-affected communities.



Unemployment and Education in Mining-affected Communities



Introduction

This briefing paper focuses on unemployment and education in mining-affected communities in South Africa. The paper highlights:

- the relationship between unemployment, education, and vulnerability to GBV
- links between economic inequality and GBV in mining-affected communities
- possible ways to empower women economically and improve their formal education

Our Findings

Our findings are based on the participatory research by WAMUA activists which involved interviews with 959 women from 14 communities in Gauteng, North West, Limpopo and Northern Cape Provinces.

WAMUA found that:

- across the 14 communities 56% of the women interviewed had not gone beyond secondary education.
- across the 14 communities 56% of women interviewed had been victims of GBV or knew of a woman who is a victim of GBV, and that the women remain in abusive relationships because of economic dependence.
- In Kuruman, Northern Cape, 91% of the women interviewed said either they or someone they know stayed in a relationship where they are the victim of domestic violence because of economic dependence.

Why is this happening: Understanding the connection between Unemployment, Education and GBV in mining-affected communities

The introduction of mining into a rural or peri-urban area comes with a range of social, economic, and environmental changes.

Mines destroy the environment and capture water, and this affects the livelihoods of small-holder farmers who rely on the land and water for agriculture and daily living. The small-holder farmers are women. Their crops feed their families. The sale of their crops to community members brings in an income to meet family needs and provides food for the community. However once the mine comes into their community women lose land and access to water and are unable to continue farming.

Losing a livelihood means that these women have to look for a job at the mine or elsewhere. However, because of their low levels of formal education many women find it difficult or impossible to find a job outside the home.

For many women working outside the home is not an option because they need to take care of children and sick family members. Much of the sickness in mining affected communities is caused by mining pollution. Often clinics and hospitals in these areas are not functioning well and this adds to women's work of caring for family members.

Women's low levels of formal education and women's responsibilities for care work in the home are the result of patriarchal beliefs and practices. Patriarchal beliefs view

- men as superior and women as inferior
- girls as not needing education for their work as caregivers within their families
- boys as needing education for jobs in the workforce,

From an early age, young girls are taught to fulfil these domestic roles, and even when they are sent to school, they miss many days of education because they are kept at home to assist their mothers with care work.

In addition, many girls miss school on the days they menstruate. Lack of access to sanitary products, poor or no toilets at school, and lack of privacy makes it difficult for young learners to manage their menstrual hygiene, and many girls often miss school. These challenges add to the cycle of inequality which limits opportunities for girls into their future as women.

South Africa has very high levels of unemployment. Millions of people with low levels of formal education have great difficulties finding jobs. The small holder farmers who lose their livelihoods because of mining join these millions among the unemployed and have to find ways of attending to the day to day needs of their families.

When a woman has not had access to higher levels of education and has lost her means to support herself and her family she is forced to rely on other ways to survive, and this at times opens her to violence and exploitation.

When women have low levels of formal education and no source of income, they are often forced to stay in relationships that cause them harm. In Kuruman, Northern Cape, 113 out of 123 respondents said either they or someone they know stayed in a relationship where they are the victim of domestic violence because of economic dependence.

Difficulties for women to get employment in mines

Many women initially see mining as bringing benefits. In another study women in Driekop, Limpopo, shared that living close to a mine has benefits and positively changes their lives through employment or self-employment opportunities.¹² However, the researchers found that these benefits are minor because the mining sector discriminates against women and offers preferential treatment to men with education and skills and who can access high-paying jobs in mines.¹³

The mines usually employ people from outside the community for those jobs which require high levels of education and in most cases, mines prefer to employ men over women even when they have the same levels of education.

Mining brings large numbers of men into the community

Mining brings a large number of unemployed men into the community. These men hope to get jobs in the mine. However, many do not get mining jobs and they add to the numbers of unemployed men in the community. Because of this migration of men into mining areas, men outnumber women in communities that host mines. This changes things in the community and often leads to an increase in violence. Many mining-affected communities are plagued by high levels of alcoholism, and this is often linked with high levels of violence including GBV.

Serving the needs of the large numbers of men who come into the community once a mine has started offers opportunities for incomes – for those who have backyard rooms to rent, those who sell food, run small tuck shops and taverns.

Some women are forced into sex work. Some are forced to perform sexual favours to keep their jobs in the mine. While in recent years prominence has been given to sex work as positive and progressive resistance against a system that oppresses women and creates the conditions for violence against them, still, it is challenging to view sex work as a form of resistance because it is linked to survival.¹⁴

[12] Lekwadu, M.I. and Lekganyane, M.R. (2022). THE EXPERIENCES AND CHALLENGES OF WOMEN WHO RESIDE IN DRIEKOP MINING COMMUNITY OF THE LIMPOPO PROVINCE. *Social Work/Maatskaplike Werk*, 58(3). doi:[11] [Centre for Applied Legal Studies. 2022. Social and Labour Plan Mining Community Toolkit, Centre for Applied Legal Studies, 10 May 2022. Available at](#)

[13] Lekwadu, M.I. and Lekganyane, M.R. (n16 above)

[14] PAPER FIVE EXTRACTIVISM'S IMPACTS ON WOMEN'S BODIES, SEXUALITY AND AUTONOMY AN INITIATIVE IANRA International Alliance on Natural Resources in Africa. (n.d.). Available at: [11] [Centre for Applied Legal Studies. 2022. Social and Labour Plan Mining Community Toolkit, Centre for Applied Legal Studies, 10 May 2022. Available at \[10\] Chadwick,R. \(n9 above\).\(Accessed on 6th November 2023\). \[Accessed 24 Nov. 2023\].](#)

What should be done?

One of the ways to combat GBV in mining-affected communities is to focus on the economic independence for women.

One strategy to increase employment opportunities for women could be the requirement that mining companies perform a Gender Impact Assessment¹⁵ on how mining will affect women and other members of communities who are not men. The assessment should be in consultation with those who will be affected by mining. The assessment should result in plans to increase women's economic independence. The Gender assessment and planning process can be added to the SLP process or can be a stand-alone, transparent and consultative process between mines and communities. Plans for women's economic independence should include but not be restricted to jobs for women in mines.

Here are some strategies for economic empowerment

- **Skill Development Programs:** Tailored training programs can equip women with skills for various jobs. These programs should focus on vocational training, digital literacy, and entrepreneurial skills, enabling women to start businesses or secure better employment opportunities.
- **Inclusive and Safe Employment:** Advocacy for inclusive employment policies within the mining sector is essential. Mines should hire more women in roles traditionally occupied by men, ensuring gender diversity and equitable pay. What is crucial is to ensure the safety of women mine workers who go underground.
- **Community-Based Projects:** Investment through consultative social labour plans in community-based projects, like agriculture or handicrafts, can provide alternative income sources. These projects should be designed to leverage the skills and knowledge local women already possess.
- **Scholarships and Educational Funds:** More accessible scholarships and educational funds for girls and women, particularly those impacted by mining activities, can provide them with opportunities to pursue higher education.
- **Adult Education and Literacy Programs:** Implementing adult education and literacy programs can help women who missed out on schooling due to early marriage, family responsibilities, or economic hardships

[15] Muponde, B.T. (2021). How mining erodes the rights of women. [online] GroundUp News. Available at: <https://www.groundup.org.za/article/how-mining-erodes-rights-women/>.

Violence in the Community



Introduction

This discussion paper focuses on GBV in mining-affected communities. Drawing on interviews and desktop research by WAMUA the paper highlights:

- high levels of GBV in the communities surveyed
- that GBV in these communities is not accidental
- some of the factors that contribute to GBV including cultural norms, social structures, and power dynamics
- some initiatives taken by other communities in other contexts to reduce and prevent GBV.

Our Findings

The interviews highlighted high levels of GBV in all 14 communities.

Of the 860 women interviewed in 14 communities in Gauteng, North West, Limpopo and Northern Cape Provinces in South Africa:

537

62%

face domestic violence

515

60%

had witnessed incidents of sexual harassment or abuse

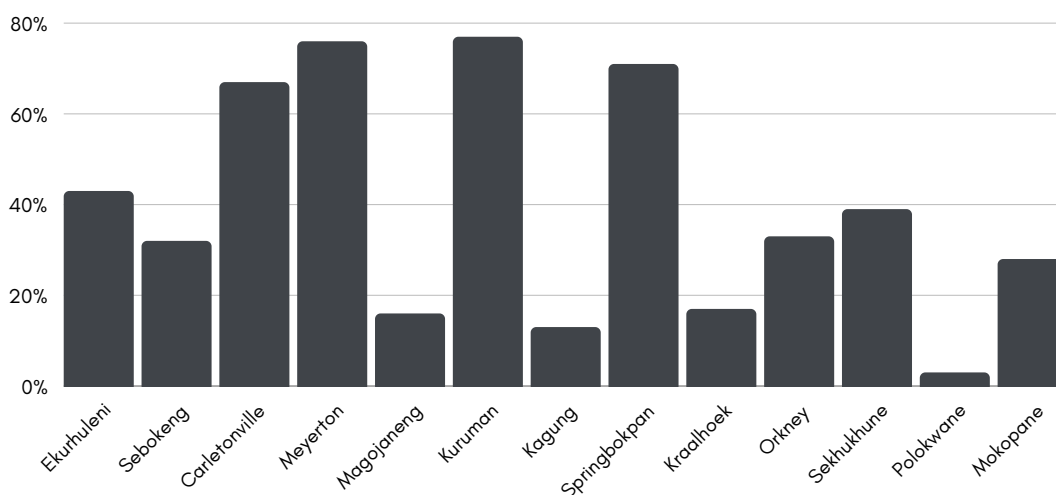
296

34%

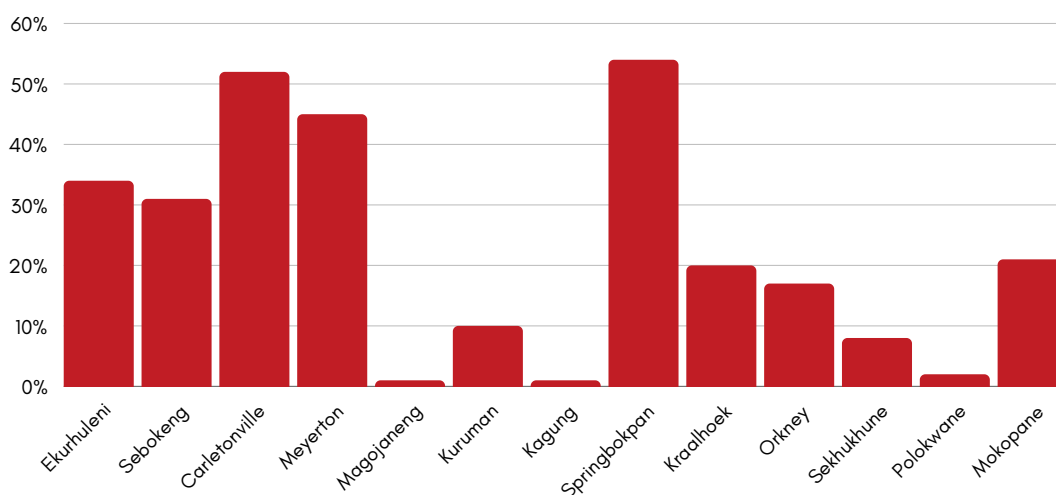
shared that children witnessed domestic abuse in their homes

19% of 860 women interviewed on GBV knew of or had used a safe house/shelter for victims of GBV.

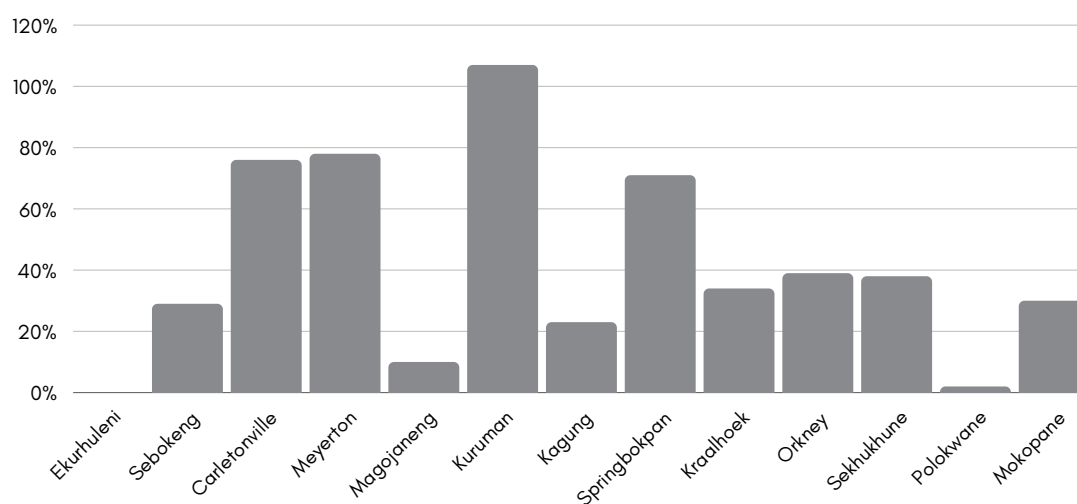
Number of people who have witnessed incidents of sexual harrassment



Number of people facing domestic violence



Number of incidents of child abuse or children witnessing abuse by the perpetrator



Why is this happening: Understanding the Roots of GBV in Mining-Affected Communities

Violence against women and girls in South Africa is linked to a violent past and present. A violence that began with colonisation, continued throughout the apartheid years and into present day capitalism. Under capitalism everyday violence takes the form of poverty and inequality which hits marginalised, black, brown and indigenous communities the hardest.

In addition to claiming the land as their own, the colonisers controlled black people through the use of brutal force. They tried to destroy the cultural norms, social structures and ways of being and existing of the black communities/societies they conquered.

Colonialism, apartheid and patriarchy created the conditions for violence we see today and which we take as normal. Colonialism and apartheid were imposed through violent means and violence is normalised through capitalism's everyday violence.

The normalisation of violence can be seen in and results from how the state in present times relates to the public.¹⁶ Public protests at times turn violent or lead to vandalism, and the police respond with violence against protesting community members. At the same time, the community members become aware that the state takes notice of their demands when there is violence and vandalism. The toxic socialisation of men around the use of violence plays into this. On both sides of these police and community conflicts there are mostly men.

Exposure of young children to domestic violence

The interviews highlighted the extent to which children are exposed to domestic abuse in their homes. The effects of this are serious. Studies show that boy children who have witnessed domestic violence are more likely to be perpetrators as adults, and girl children are more likely to be victims of domestic violence as adults.¹⁷

WAMUA members shared that in KwaThema, Gauteng, young men who grew up exposed to violence perpetrated violence as adults. WAMUA interviews found that the mining area of Springbokpan, North West, had the highest number of children exposed to domestic violence as compared with the 13 other communities areas surveyed.

[16] Joyi, N. (2023). Krugersdorp Gang Rape Highlights The Multiplicity Of Violence Black Women's Bodies Experience In Townships. [online] [Accessed on 12 November] Available at: [15] Muponde, B.T. (2021). How mining erodes the rights of women. [online] GroundUp News. Available at: <https://www.groundup.org.za/article/how-mining-erodes-rights-women/>.
[17] Ryan, J. 2013. A South Africa Retrospective Study of Children's Exposure to Domestic Violence as a Predisposing Factor for Revictimization in Adulthood, University of the Western Cape, November 2013. Available on: [15] Muponde, B.T. (2021). How mining erodes the rights of women. [online] GroundUp News. Available at: <https://www.groundup.org.za/article/how-mining-erodes-rights-women/>. [Accessed on 20 November 2023]

There are psychological effects on children who have witnessed domestic violence; these effects include antisocial or aggressive behaviour, depression and anxiety.¹⁸

The lack of safe social spaces and the lack of mental health support within the state health care system means that children are trapped by their socialisation of violence, which then turns into a norm and becomes something endemic in society.

The past and patriarchy created the means for the normalisation and prevalence of violence in societies like South Africa; mineral resource extraction and the social ills related to it perpetuate and heighten violence in communities. The unsafe and volatile living situations that children are exposed to leave them vulnerable to being victims or perpetrators as adults in these communities – thus maintaining this cycle.

Alcohol and violence

Communities close to mines usually have a higher proportion of men because of the influx of men looking for jobs. These areas also seem to have high levels of alcohol abuse, and higher levels of violence.¹⁹ With no other recreational spaces taverns become the places where men gather. There is also a vicious cycle that the vast majority of South Africans find themselves in – to deal with the pain, shame and trauma of living in poverty and crushing inequality, many resort to alcohol and drugs. While there is a lack of access to mental health facilities/support in these communities, alcohol and drugs are readily available.

Members of WAMUA shared stories of difficult living conditions in KwaThema, Gauteng. They stated that crime and drug abuse contribute to the high levels of violence in KwaThema.

Difficulties in reporting violence by family members

Victims decide not to report cases because they feel they will not be supported, believed or will be blamed by others around them. In some instances, women do not report cases because they are economically dependent on the perpetrator and do not want the perpetrators to lose their jobs. In many instances women fear violence from the police and believe that the police will not take any action to help them. When victims do report, police do not believe them or laugh at them.

[18] www.psychologytoday.com. (n.d.). Alarming Effects of Children's Exposure to Domestic Violence | Psychology Today South Africa. [online] Available at:

[19] Lekwadu, M.I. and Lekganyane, M.R. (n15 above)

Community-driven solutions, strengthened by community ownership of solutions, is one way to disrupt the normalisation of violence and the silencing of victims.

Other ways involve legislation, support by NGOs, and the state. In the case of mining-affected communities mining companies must be made to adhere to SLPs and be persuaded to develop programs to address violence and support victims within their SLPs.

Some community-driven solutions implemented in countries in the global south that have shown positive results include:

- Establishing community watch or neighbourhood watch groups that monitor and report incidents of violence. These groups can be trained to intervene safely in situations of violence, provide immediate support to victims, and liaise with local authorities.
- Creating safe spaces or support networks run by community members. This can be an advice office in a community where staff are trained to offer support or counselling for victims. Communities can organise support group meetings in churches, community halls or homes to support and provide advice to victims.
- Implementing peer-to-peer support groups for adults or children where survivors of GBV can share their experiences and support each other. Such peer groups can also play a role in spreading awareness and educating others in the community.
- Involving young people in awareness and prevention programs to break the cycle of violence. Schools and youth clubs can be platforms for initiatives like mentorship programs and workshops on healthy relationships and where to receive support.
- Initiatives to improve the economic status of women in communities, for example skills development programs. Mining companies can support such initiatives through the SLPs.
- Initiatives to ensure shelters are available and adequately resourced for victims of GBV.
- Engaging with men and boys through education around unlearning harmful social norms or challenging gender norms that facilitate the conditions for GBV.

High rates of non-reporting can also be linked to the socialisation of women. The Centre for the Study of Violence and Reconciliation (CSVR) conducted research in 8 communities in South Africa and found that many women were socialised²⁰ to accept subtle forms of abuse, and were told not to expose “family matters” outside the family.

When children share with their parents that they have been victims of sexual violence nothing is done and in instances when a child accuses a family member of abuse the child is punished for placing shame on the family. These responses socialise children to remain silent and children carry this into adulthood.

Lack of safe houses and shelters

Only 19% of the 860 women interviewed on GBV knew of or had used a shelter for victims of GBV. This makes clear that protection and safety in mining-affected communities is non-existent. A woman may never see justice and will struggle to find a place of safety she can flee to from her current abusive situation. The shrinking pool of state funding to support shelters also means that shelters are not operating at optimal levels and might open victims to re-traumatisation or further violence.

What should be done?

GBV in mining-affected communities is a complex issue with deep-rooted causes that are inextricably linked to the historical legacy of colonialism, apartheid, patriarchy, and the social ills associated with mining. The data presented in this briefing paper paints a disturbing picture of the widespread nature of GBV in mining-affected communities. The testimonies shared by WAMUA members highlight the personal toll that this violence takes, leaving victims traumatised, silenced, and trapped in a cycle of abuse.

As a major stakeholder in these communities, the mining sector should be held responsible for combating GBV. Mining companies must adhere to their (SLPs) and develop comprehensive programs that address violence prevention, victim support, and community empowerment. Government at all levels must also play a critical role in addressing GBV in mining-affected communities. This includes strengthening law enforcement and judicial systems and scraping austerity that leads to budget cuts affecting support for care centres or shelters for victims.

While there is no single solution to this pervasive problem, community-driven solutions offer a promising approach to effectively addressing violence and GBV. By working closely with communities to take ownership of the solutions and tailoring interventions to the specific needs of each context, we can begin to break the cycle of violence.

The shame and fear that victims of violence go through reinforces the relevance of community-driven solutions. It is best to work with those directly affected and to develop a multi-pronged community driven approach for justice and healing.

[20] Moyo-Kupeta, A. (2023). GBV: A Social Justice Issue Requiring a Social Justice Response. [online]

Protection and Safety



Introduction

This paper examines the state of policing in mining-affected communities in South Africa, and how this links to the erosion of protection and safety for victims of GBV

Insights/data within this paper are drawn from interviews conducted by WAMUA activists with community members in 14 communities in Gauteng, Limpopo, North West and Northern Cape Provinces and from desktop research.

Our Findings

52% of respondents shared that either they themselves or people they know had not reported their experiences of GBV to the police. The reasons they gave for victims not reporting are;

- They felt nothing would be done
- They feared the police would let the perpetrator know who reported them
- They fear violence from the police
- Their families did not want them to make the matter public.

When victims of GBV do report violence, the police do not believe them, and at times respond with laughter, minimising and dismissing the violence. There is seldom a female police officer, or an officer with knowledge of GBV to report to.

Women interviewed said that their main reasons for not reporting are linked to mistrust of the police, lack of resources available to the police, and that police officers are themselves perpetrators of violence. The police are often seen as a force of oppression rather than a protector of the people.

Additionally, victims of gender-based violence (GBV) are often reluctant to report their cases to the police due to fear of retaliation or re-traumatization. Lack of reporting means that perpetrators of GBV often go unpunished.

In addition to problematic policing in many of the communities surveyed, there was a lack of policing for community members as a result of a lack of resources at local police stations because of budget cuts. Lack of protection and safety for community members leads to high levels of crime and violence.

On the other hand, mining companies are not short of protection and safety from private companies, and often from police who are brought from outside the area, to protect mine property and interests.

Victims of GBV in these communities, however, have no guarantee of safety and protection.

Police and mining-affected communities

Police brutality, corruption and inefficiencies fuel the levels of mistrust among the general public towards the police. The late 90s and early 2000s were characterised by high crime levels and a war on crime took centre stage in South Africa. As a result, work to transform the South African Police into a service for the vast majority of people was not prioritised. The old para-military structures of the apartheid era police mostly remained, giving police the power to detain people or seize anything they deemed a national threat²¹. The police constantly see themselves at war against anyone they deem criminal, or a threat to the state.

Rather than transforming into an entity to serve and protect people, the police remained an entity to enforce the law in the state's interest. For a state that heavily relies on mining, protecting mining operations becomes paramount and the means used to protect mining operations are brutal, instilling fear in anyone who would dare to challenge the state. This was made evident in August 2012, on the day of the Marikana Massacre, when police killed 34 mineworkers in Marikana in the North West while they were on strike for a living wage. The police were deployed to maintain and protect the interests of a mining company, and by extension, the interests of a state that relies heavily on mineral resource extraction, a state with a colonial and apartheid past.

There are many obstacles to justice

Despite laws and a constitution which ensure justice and protection for victims, the lived realities of victims are different.

In 2004, the Charter for Victims of Crime in South Africa was developed²². Rights in the charter are meant to ensure victims of rape and GBV are protected and receive justice. However, the experiences of women on the ground are very different.

Victims of GBV face numerous obstacles in seeking justice, ranging from fear of retribution to encountering police indifference or hostility. Additionally, the scarcity of resources, including safe houses and support centres, further exacerbates the vulnerability of GBV victims. The situation is a stark reminder of the urgent need for systemic reform in policing and increased support for victims of violence in mining-affected communities. Ensuring effective protection and safety requires legal and policy changes and a fundamental shift in how law enforcement engages with and serves.

[21] Feltham L & Rupiah K. 2021. The Mail & Guardian. When violence is policy: How do we curb police brutality? [online] Available at: <https://mg.co.za/politics/2021-04-25-when-violence-is-policy-how-do-we-curb-police-brutality/> [Accessed on 4 December]

[22] www.justice.gov.za. (n.d.). SA Victim Charter/Home. [online] Available at: <https://www.justice.gov.za/vc/vcindex.html> [Accessed on 10 December]

THE LEGAL FRAMEWORK AND BARRIERS TO JUSTICE AROUND GENDER-BASED VIOLENCE IN SOUTH AFRICA

The Constitution

In terms of the South African Constitution, the state (the executive, legislature and judiciary) has negative and positive obligations around the rights of individuals set out in the Bill of Rights. ²³

The negative obligations the state owes the people within the country imply that the state cannot unjustifiably limit or violate an individual's rights under the Bill of Rights. The state cannot, for example, unjustifiably evict someone from their home (right to housing) or prevent a child from attending school (right to education).²⁴

Unlike many other countries, South Africa's Constitution also creates positive obligations on the state to promote and fulfil the rights under the Bill of Rights. For example, the state is obligated to provide health care through progressive realisation to all those within the country.²⁵

All people in South Africa have a right to be protected from becoming victims of gender-based violence. Gender-based violence is violence against women and gender-diverse people based on discrimination. The state has negative and positive obligations that it owes to potential and current victims and survivors of gender-based violence. The state ought to prevent individuals from becoming victims of gender-based violence (effective policing and court systems) but also it must assist individuals who have once they have been violated with their needs (such as health care).

There are many rights in the Constitution that are violated unjustifiably when an individual becomes the victim of gender-based violence. These rights include an individual's right to equality (section 9), dignity (section 10), freedom and security (section 12). Where gender-based violence results in death, the right to life is limited in its most extreme form (section 11).²⁶

Children's rights are set out under section 28 of the Constitution and include the rights of children to be protected from abuse, which includes all forms of violence.

When considering women and gender-diverse individuals' rights around obstetric violence (a form of gender-based violence) rights such as those contained under section 27 of the Constitution. Section 27 secures the rights of everyone in South Africa to health care services, which include reproductive health care.

[23] Government of the Republic of South Africa and Others v Grootboom and Others 2000 (11) BCLR 1169 (CC).

[24] The right to housing is set out under section 26, and the right to education is set out under section 29 of the Constitution.

[25] The right to health care is set out under section 27 of the Constitution

[26] Our courts have held that the right to life and the right to dignity are "twin rights" and are the essential content of all other rights. See S v Makwanyane and Another (CCT3/94) [1995] ZACC 3; 1995 (6) BCLR 665; 1995 (3) SA 391; [1996] 2 CHRLD 164; 1995 (2) SACR 1.

Laws relating to gender-based violence, such as sexual offences

The UN Women describes gender-based violence as “harmful acts directed at an individual or group of individuals based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms”.²⁷ United Nations Women further explains that gender-based violence manifests as physical, sexual, psychological or emotional violence against women and gender-diverse individuals.²⁸

The South African Police Service (SAPS) releases quarterly and annual statistics that trace various forms of offences. For 2020/2021, 46 214 incidents of sexual offences were reported to the SAPS which increased to 52 694 in 2021/2022.²⁹

The rate of rape in South Africa is comparable to rates of rape in some countries during conflict. Rape in conflict is recognised in international law as a crime against humanity. Rates in areas of conflict that are similar to only one year of reported rape in South Africa include around 60 000 women raped during Sierra Leone’s civil war and 20 000 – 50 000 women raped in the war in Bosnia and Herzegovina.³⁰

Even with the very high rates of sexual offences reflected by the SAPS statistics, many victims of sexual offences do not report their violations to the police. Previous studies have shown that many victims simply choose not to report sexual offences; although the studies are quite dated, they remain illustrative of a problem around reporting. In 2002 a national study found 1 in 9 victims reported their rape to the police.³¹ Whereas a 2011 study in Gauteng found that 1 in 25 victims reported their rape to police.³² Thus, official rape statistics must be seen as underrepresenting the true total number of sexual offences that occur within the country at any specific time.

The Violence in the Community Briefing Paper indicates 11,28% of participants self-report experiencing physical or sexual abuse. With the general underreporting and non-disclosure within the country, the number is likely to be higher than this.

Victims of sexual offences have recourse against their perpetrators in terms of the law. The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (SORMA). SORMA creates criminal offences relating to different forms of gender-based violence. These include offences of rape, compelled rape, sexual assault, incest as well as sexual offences against children and persons with disabilities.

[27] UN Women. (n.d). Frequently asked questions: Types of violence against women and girls.

[28] Ibid.

[29] SAPS. (2022). Police recorded crime statistics Republic of South Africa – April 2021 to March 2022. Retrieved from

[30] United Nations Development Fund for Women. (n.d). Rape as a Tactic of War.

[31] Jewkes, R., & Abrahams, N. (2002). The epidemiology of rape and sexual coercion in South Africa: an overview. *Social science & medicine*, 55(7), 1231-1244.

[32] Gender Links and South African Medical Research Council. (2011). The War at Home: The Gauteng GBV Indicators Research Study. <http://The War at Home: The Gauteng GBV Indicators Research Study.: Gender Links and the South African Medical Research Council>.

Although there is recourse available in terms of the criminal law, unfortunately this does not translate to high rates of convictions of perpetrators of gender-based violence and sexual offences. According to a South African Medical Research Council report in 2017 that of cases reported to police approximately 8.6% result in convictions.³³ The problem of conviction is partly affected by low reporting to police, lack of proper investigation, as well as failure by the state to prove beyond a reasonable doubt that an accused committed the offence.

In relation to the faith of communities in the police's effectiveness in investigating cases, it can be seen from the Protection and Safety Briefing document that only 27,8% of individuals affected by gender-based violence do not report the offences to the police.

Laws relating to gender-based violence, such as sexual offences

Laws relating to intimate partner violence

Gender-based violence occurs within the home in many forms, but one of the most prevalent forms is intimate partner violence, commonly known in South Africa as "domestic violence".

Around the world, rates of intimate partner violence remain high. This is with 30% of women and girls over the age of 15 having experienced physical and/or sexual violence by an intimate partner.³⁴ The Violence in the Community Briefing Paper aligns with the global rate, with 29,2% of interviewees reporting facing intimate partner violence at the time. These numbers may, however, be higher as individuals face various barriers around disclosing violence within the home. These barriers include pressure by families to stay, not acknowledging treatment amounts to a violation, and fearing for the safety of themselves and their children if they disclose.

Intimate partner violence can take various forms and is not isolated to physical or sexual violence. In terms of the Domestic Violence Act 116 of 1998 (DVA), violence includes emotional, verbal and psychological abuse; economic abuse; intimidation; harassment; stalking; damage to property; and controlling behaviour.³⁵

The DVA is a law which allows victims of intimate partner violence to approach a magistrate's court to obtain a protection order against a violent partner.³⁶ A protection order prohibits a violent partner from engaging in certain types of negative actions against the victim. If a violent partner then proceeds to commit any of the negative actions or violations, the victim can approach the police to have the violent partner arrested. The violent partner can also face criminal charges for contravening the protection order.³⁷

[33] Mercilene Machisa et al. (2017). Rape Justice In South Africa: A Retrospective Study Of The Investigation, Prosecution And Adjudication Of Reported Rape Cases From 2012.

[34] World Health Organization. (2021). Violence against women. <https://www.who.int/news-room/fact-sheets/detail/violence-against-women#:~:text=Most%20of%20this%20violence%20is,violence%20by%20their%20intimate%20partner.>

[35] Domestic Violence Act (1998).

[36] DVA section 4.

[37] DVA section 17.

Unfortunately, protection orders are not a silver bullet in preventing further violence against victims by their intimate partners. In some instances, obtaining a protection order can put a victim in more danger.³⁸ Henson explains although concerning mandatory reporting of intimate partner violence, although by certain individuals, that "...there is a very real risk that an abuser will learn about a report and retaliate against the victim either through an escalation in violence or by forcibly ejecting the victim (and their children) from a shared residence".³⁹

The fear of being rendered homeless or facing economic abuse by a violent partner is not a remote occurrence in abusive relationships. In the Violence in the Community Briefing Paper, 26,5% of individuals admitted to staying in abusive situations due to economic reasons.

Again, the number of women who stay in abusive relationships due to economic dependence may, in fact, be higher than the Violence in the Community Briefing Paper records, as South Africa has both a very high unemployment rate and very low representation of women in the workforce when compared to men.

Currently, the unemployment rate, according to Statistics South Africa, is around 32%, with 7.9 million South Africans being unemployed.⁴⁰ In 2022, it was reported that 47% of working-age women were economically inactive compared to 35.6% of men. Statistics South Africa states that it remains more difficult for women than men to find employment. Furthermore, they state, "[t]he labour market continues to favour men and shows no signs of making real progress towards improving prospects for women".⁴¹

Considering the interviewees were individuals living within mine-affected communities and generally form part of the working class in South Africa, access to job opportunities is extremely limited. Thus, the intersection of high rates of intimate partner violence (generally in South Africa) with the lack of employment opportunities for women may, in fact, yield a higher number of women staying in violent relationships due to economic dependence.

[38] Henson, L. (2020). Mandatory reporting of domestic violence: Helpful or harmful? News24. [33] Mercilene Machisa et al. (2017). Rape Justice In South Africa: A Retrospective Study Of The Investigation.

[39] Henson, L. (2020). Mandatory reporting of domestic violence: Helpful or harmful? News24. [33] Mercilene Machisa et al. (2017). Rape Justice In South Africa: A Retrospective Study Of The Investigation.

[40] Statistics South Africa. (2023). Quarterly Labour Force Survey (QLFS) Q2:2023. [33] Mercilene Machisa et al. (2017). Rape Justice In South Africa: A Retrospective Study Of The Investigation.
Prosecution And Adjudication Of Reported Rape Cases From 2012.

[41] Statistics South Africa. (2022). Nearly half of SA women are out of the labour force in Q2:2022. [33] Mercilene Machisa et al. (2017). Rape Justice In South Africa: A Retrospective Study Of The Investigation.
Prosecution And Adjudication Of Reported Rape Cases From 2012.

Laws relating to sexual harassment

In terms of the Protection from Harassment Act 17 of 2011 (Harassment Act) sexual harassment includes unwelcome sexual attention from a person who knows or ought to know that the attention is unwelcome; unwelcome explicit and implicit behaviour such as suggestions and remarks of a sexual nature; implied or promised reward for complying with a sexually orientated request; or implied or express threat of reprisal or actual reprisal for refusing to comply with a sexually orientated request.⁴²

Sexual harassment does not only occur within the workplace and can include harassment at various places and contexts, such as school, university, church, by someone in a person's neighbourhood, or on public transport. There is no closed list of places or contexts where sexual harassment can take place.

Sexual harassment is also a prevalent form of gender-based violence in South Africa. From the Violence Community Briefing Paper, we can see that 29.2% of interviewees stated that they had witnessed sexual harassment. Again, the numbers may, in fact, be considerably higher, as many individuals do not know what types of actions constitute sexual harassment. Furthermore, many individuals may perceive sexual harassment as "normal" due to South African communities being extremely patriarchal and discriminating against women, resulting in high rates of sexual violations, including harassment.

Tracing rates of sexual harassment in South Africa is difficult as this form of gender-based violence occurs in many places and emerges in many forms. However, the Commission for Conciliation, Mediation and Arbitration (CCMA) note that there has been a significant increase in sexual harassment cases at workplaces in South Africa.⁴³

Similar to the DVA, the Harassment Act also allows victims of sexual harassment to approach a magistrate's court to obtain a protection order against a harasser. Unfortunately, to apply for a protection order, a victim must know specific details about the harasser. This includes the harasser's name and where they live or work. This may be a barrier for those who experience sexual harassment on public transport or in other public spaces, as the victim would not be likely to know all the details relating to the harasser.

[42] Protection from Harassment Act 17 of 2011.

[43] Martinus van Staden. (2022). Sexual harassment is a growing workplace scourge, and laws dealing with it are fragmented. <https://www.dailymaverick.co.za/opinionista/2022-07-07-sexual-harassment-is-a-growing-workplace-scourge-and-laws-dealing-with-it-are-fragmented/>.

Laws relating to obstetric violence

Obstetric violence is a form of gender-based discrimination which sees pregnant women and birthing individuals as the primary victims. This form of violence occurs within health care systems before, during and after an individual gives birth.

Obstetric violence includes physical, sexual, or verbal abuse, bullying, coercion, humiliation, or assault that occurs in women and birthing people by medical staff, including nurses, doctors, and midwives.

Consent is the cornerstone of the patient's relationship with their health care practitioner. Relationship. This is supported by the National Health Act that says that a health service cannot be provided to a patient without their consent⁴⁴. Also, along with consent patients have the right to participate in any decision which affects their personal health and treatment⁴⁵. So, in essence health care practitioners must advise, engage with and seek the informed consent of patients before proceeding with any health care treatment.

Forced or coerced sterilisation of women is one form of obstetric violence which emerges due to a lack of consent by the patient.

Forced or coerced sterilisation occurs when a woman is sterilised despite her not consenting to sterilisation, providing consent under duress, or without her having knowledge of all the relevant information about the procedure and consequences thereof. Forced or coerced sterilisation is prohibited in terms of the Sterilisation Act 44 of 1998 (Sterilisation Act)⁴⁶. The Act further makes it a crime to perform a sterilisation where the individual has not consented thereto.

In May 2019, the Commission for Gender Equality (CGE), an independent statutory body whose mandate is to promote respect for, protect, develop and attain gender equality within all spheres of South Africa, released a report on its findings around allegations of the forced or coerced sterilisation of women living with HIV/AIDS at certain public health care institutions in South Africa⁴⁷. The CGE report found that 48 black women had, in fact, been forcefully sterilised due to discrimination based on their HIV status.

Obstetric violence is rife within the country, as can be seen by the statistics set out in the Access to Health and Dignity Briefing Paper. For example, of 959 interviewees, 308 reported undergoing procedures relating to their pregnancies without their consent. Furthermore, 11.1% of interviewees stated that they had been forebay or coercively sterilised.

Many patients are unaware that healthcare practitioners must always request consent before touching them. This is especially important when healthcare practitioners touch a patient's sexual organs, such as the vagina, breasts or anus. If touching is non-consensual, it can be deemed a crime, such as assault or sexual assault. According to the Access to Health and Dignity Briefing Paper 49.11% of women reported their genitals were touched without their consent while they were giving birth.

[44] National Health Act 61 2003 at section 7.

[45] National Health Act 61 2003 at section 8.

[46] Sterilisation Act 44 of 1998.

[47] Commission for Gender Equality. (2020). Investigation report on the forced sterilisation of women living with HIV/AIDS in South Africa. [42] Protection from Harassment Act 17 of 2011.

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Obstetric violence can also include verbal abuse and physical abuse by healthcare practitioners. This can include verbal threats, insults, screaming at patients, verbal discrimination, and also physical violations such as pinching or slapping patients. According to the Access to Health and Dignity Briefing Paper 33.6% of women experienced one of these forms of violence during labour.

Although obstetric violence can fall under the criminal laws relating to assault, or grievous bodily harm the failure to acknowledge obstetric violence in South African law explicitly makes recourse difficult for women.



A CALL TO ACTION TO CIVIL SOCIETY AND OTHER STAKEHOLDERS TO IMAGINE A MULTIFACETED APPROACH TO TACKLING GENDER-BASED VIOLENCE IN SOUTH AFRICA.



Violence is a part of capitalist extractivism - a system through which a powerful few are able to exploit the majority for the profit of a few.

What drives this system is greed. Mining companies are driven by making as much money as possible. They care little for the people, animals and other creatures who depend on the land for survival. They care little about the earth, the air and water or the climate. They continue to destroy land, the environment and the lives of the people living close to mines in order to make profits.

In this system large profits can only be made through:

- Exploiting workers by paying them as little as possible and not providing for their safety
- Through exploiting women's work in the home and family, knowing that because women do all this work for no pay, the bosses do not have to pay workers the cost of cleaning, cooking and healthcare provided by women
- Destroying the land and polluting water sources and air - and not paying for the costs of the damage they create.
- The use of violence through company security, the army and police - violence to protect the mineral wealth, to restrict access to the land the mines take over, and to prevent and deal with protests from women and their communities

This system determines who shall live, who can be allowed to die, whose lives matter and whose lives are not seen as a loss. It is not an accident that it is the poor, working class and dispossessed majority who pay the costs of a system hell bent on making sure a few can make as much profit as possible. The system is designed to do this.

It is the poor who carry the costs of this destructive and violent system. Mining companies do not carry the costs of

- clean ups after mining
- fair compensation for loss of resources and livelihoods of people in affected communities
- increases in women's unpaid labour
- worsened health as a result of mining activities for people in affected communities

Violence is how the extractivist system is able to stay in place. This violence goes beyond the actions of the army, police and men with guns. The poverty created by this system is violence. Moving people off the land they depend on to make way for mines is violence. Leaving people without the means to survive is violence.

For women the system breeds both increased domestic violence and sexualised violence and rape.

When communities protest the negative actions of mining companies' community activists face police and army violence, assassinations, and arrests.

Dealing with state and company violence

Activists in communities affected by mining have taken up campaigns to pressure companies to clean up, to pay fair compensation for loss of land and resources and to pay compensation for the costs to health.

In some cases, communities have won their legal claims, in other cases companies have been able to drag out court cases for more than 10 years and communities are left without any success.

We need legislation and processes to hold the state and companies to account and we need to find ways to help build the power of women in communities so that they may use these processes to hold states and companies to account.

At the same time, we need to understand that these processes have the serious limitation of privileging the rich and powerful, and that they are part of the system that allows and creates poverty and inequality.

Dealing with individual acts of violence in the home

In the 1970s women within national liberation and workers movements across Africa, Asia and South America, and in the USA and Europe took up the struggle for women's liberation. One of the issues that women took action on was the violence they experienced in their homes, communities, their movements and streets.

Take back the night marches highlighted that women are not free to walk in their neighbourhoods because of the ever-present danger that men would rape them. Women supported each other through counselling and the setting up of shelters for women who experienced violence.

Women came together in small groups to share their experiences, and this grew their awareness and understanding that violence from a partner is not the woman's fault, and that a man does not have a right to physically discipline his partner or to expect sex from her as a right. Women became aware that the violence they experienced in relationships with men is to do with power dynamics where men are given privileges and women are expected to serve and be obedient to men.

Women campaigned that domestic violence and rape should be treated as crimes and these campaigns won new laws. With the new laws rape in marriage became a criminal act and sex was no longer something a husband could demand. A husband's right to discipline his wife with a beating became outlawed and women could report such violence to the police and courts.

However, these changes, important as they were, have not lessened violence against women. Among the reasons are that women often face victimisation when they speak out. Families, communities, the police, the courts and other institutions victimise women. When women report violence family and community members tell women you have shamed us by making public something that should remain in the family. The police tell women domestic violence is a private matter, go home and sort it out. Courts do not believe women and place the burden of proof on the women – proof on what took place in a private moment when no one else but the victim and perpetrator were present.

In keeping with WAMUA findings, recent United Nations statistics on Violence Against Women show that globally 35 per cent of women have experienced physical and/or sexual intimate partner violence, or sexual violence by a non-partner.

Statistics also show that globally many women do not report the violence they experience. Less than 40 per cent of the women who experience violence seek help of any sort.⁴⁸

We need movement strategies to ensure support to women who experience violence. We need strategies to build the power of women to make sure that the laws, institutions like the police services, healthcare and the court services work better for women, while also recognising that these services take place within the state which in itself is more concerned with the interests of the rich and powerful and concerned less about the poor and working class.

We need to

- create spaces where women can speak out about the violence they face in their families, communities and at the hands of police, hospital staff and mine security
- ensure counselling, access to spaces of safety, and other supports for women who experience the trauma of violence
- ensure that the police, healthcare and criminal justice systems are supportive to women who wish to report violence against them and who wish to pursue court actions against perpetrators of violence

Thinking outside the system

We also need to think outside of the state system to find ways to ensure transformational justice to help reduce and end violence against women.

Feminists' activists from the USA such as Angela Davis⁴⁹ ask an important question: How do women take action and seek legal or other justice responses when the very state they are asked to report to and ask for assistance and justice is the main perpetrator of violence against women?

[48] UN Women. (2021) Fact and Figures: Ending Violence against Women -<https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

[49] Davis, A. (2000) The Color of Violence Against Women, keynote address at the Color of Violence Conference in Santa Cruz. Colorlines, Vol.3 no.3, Fall 2000 http://www.arc.org/C_Lines/CLArchive/story3_3_02.html (link not working)

The great challenge for feminists, these activists tell us, is that while legal solutions are necessary, these rely on punishment within state institutions that promote violence especially for women, people of colour, the poor and the marginalised.

These activists point out that legal solutions are in line with the state's way of responding with punitive justice that is justice based on punishment. That instead of asking "how can we hurt perpetrators" we should be asking "how we can make relationships better". That instead of being caught up in a cycle of revenge, we should challenge ourselves to think of transformative justice that can create a more just, human community and relations among people that allow us to flourish.

While being aware of the state as an agent of violence, and while working for transformative justice (that is justice to change the situations which cause violence) we can at the same time demand legal changes, good policing and services such as shelters and counselling for women who experience violence. It is not a contradiction to want both these things – that is transformation and services.

Sisters in Spirit campaign in Canada,⁵⁰ for example, while based on an awareness of the ongoing violence of the Canadian state against people of the first nations, at the same time demands protection from that state for individual acts of violence. This is not a contradictory position. It is a position that is important for the safety and dignity of the women most marginalised by state violence.

We need an approach that relies on political mobilisation rather than legal remedies or social service delivery, and which develops temporary and long-term solutions to violence based on an awareness that global capitalism, global colonialism, racism, and patriarchy shape violence against women of colour.

WAMUA's Call

The struggle against gender-based and obstetric violence in South Africa's mining communities is a fight against deeply entrenched historical and systemic issues. WAMUA's activism and research have laid the groundwork for this fight. This report is a call to action for all stakeholders to come together and work towards a future where communities affected by mining are free from the scourge of gender-based violence and obstetric violence and can thrive in a just and equitable society.

The report emphasises the importance of collaboration among various stakeholders, including policymakers, non-governmental organisations (NGOs), communities, and individuals. This collective effort is crucial for creating a safer society for women.

[50] Hall, RJ. (2014) "Feminist Strategies to End Violence Against Women", in The Oxford Handbook of Transnational Feminist Movement, edited by Rawwida Baksh and Wendy Harcourt. Oxford Handbooks Online <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199943494.001.0001/oxfordhb-9780199943494-e-005>

Education on obstetric violence and gender-based violence as a whole, improved healthcare services, and legal accountability are vital components of this approach. Additionally, mining companies must play a significant role in contributing positively to the socio-economic development of the affected communities.

Tackling GBV in mining communities in South Africa as a whole necessitates not only addressing the direct violence experienced by women in and around mines but also confronting the broader systemic issues of economic exclusion, environmental degradation, and power imbalances.

WAMUA makes an urgent call for actors in civil society to truly collaborate in addressing the intertwined challenges of gender-based violence, health, and dignity in these communities.

Some of the ideas WAMUA proposes are:

- Participatory Research as an important tool for empowering communities and building effective movements to challenge existing power structures.
- Education and awareness campaigns for women and their communities
- Economic Alternatives for communities affected by mining to reduce dependence on the mining sector and provide sustainable livelihoods.



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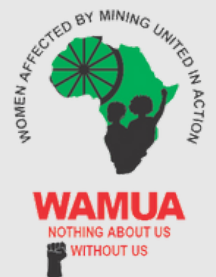


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