



## “Measure What Matters”: The Challenges Brought by Non-Categorisation of Gender-Based Violence and Femicide as a Crime at Higher Education Institutions, South Africa

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### **Abstract**

Crime in South Africa is categorised in a way that no two crimes can carry the same meaning. Hence, the crime of theft does not relate to the crime of house robbery. Gender-based violence and femicide (GBVF), is a very serious crime that is not categorised as a crime on its own, but is a crime which is identified through other crimes. This paper investigates the impact of the lack of categorisation of GBVF as a crime. The reviewed literature outlined a sense of confusion by the higher education institutions (HEIs) when addressing this crime. There is a sense of misunderstanding on which crimes constitute to be identified as GBVF, since GBVF is not categorised as a crime in the South African Police Service (SAPS) statistics. The reviewed literature outlined that GBVF has developed, and evolved overtime and it now has many terms that associate with it, these terms can range from domestic violence, intimate partner violence (IPV), violence against women (VAW), and attacks on the lesbians gays bisexuals transgender queer questioning and intersex community (LGBTQI). From the findings and recommendations, HEIs can be able to better respond to cases of GBVF on campus.

**Keywords:** *Gender-Based Violence and Femicide; Higher Education Institutions; South African Police Service; Training*

### **Introduction**

South Africa continues to wrestle with the brutal pandemic of gender-based violence and femicide (GBVF). The country is struggling to contain the heart-wrenching impact that GBVF continues to have on individual women, children, lesbian, gay, bisexual, transgender, queer, intersex, asexual (LGBTQIA+) and other persons, families, communities and the society as a whole (Hansrod, 2020; Sibanda, Khonje & Brobbey, 2017; Thobejane, Mogorosi & Luthada, 2018). Even though GBVF is dupped to be a concerning crime that is being committed at a high rate, it is not categorised as one of the crimes in the SAPS crime statistics. Lopes and Stone (2018: 13), assert that the crime of GBVF is identified from a number of crimes within the categorised crimes by the SAPS. GBVF has long constituted a serious problem in South Africa. Bensouda (2018), and Clark (2017), state that in 2000, Cabinet members set up the first coordinating structure tasked with developing a plan to combat this violence, and since 2011, there has been an expanding apparatus of structures, institutions to tackle cases

of GBVF (Clark, 2017: 291). The mentioned apparatus are put in place to manage GBVF attacks because these attacks are fatal and need to be given proper attention (Schwark & Bohner, 2019; Djamba, Yanyi, Kimuna & Sitawa, 2015). Hence, GBVF is an offence on its own merit and should be treated as such.

GBVF is explained as any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to a person of a different gender, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life (Gould, 2015; Javaid, 2018). Gravelin, Biernat and Bucher (2019: 2) mention that acts of GBVF are understood to encompass, but not be limited to, the following: physical, sexual and psychological violence occurring in the family and in the community, including battery, sexual abuse of female children, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution, and violence perpetrated or condoned by the State. Mogstad, Dryding and Fiorotto (2016:23) further indicate that domestic violence is the most common form of GBVF among partners. Herrera (2017: 3), mentions that GBVF cases are prevalent in the higher education institutions (HEIs) because these places are places that are filled with diverse people who can commit or be victims of GBVF. The categorisation of this phenomenon into a crime can help the HEIs to know how to address it.

The high levels of GBVF in South Africa permeate most women's lives across a continuum resulting in a significant number of women living with high levels of trauma on an ongoing basis (Schwark & Bohner, 2019; Beyene, Chojenta, Roba, Melka & Loxton, 2019). The World Health Organisation (WHO), estimates that 12.1 in every 100 000 women are victims of femicide in South Africa each year which is five times the global average of 2.65. Other forms of gender-based violence are also prevalent (WHO, 2013: np). The South African Police Service (SAPS), recorded 42 289 rapes in the 2019/2020 financial year. These figures were up from 41 583 in 2018/2019 reflective of the increase in numbers of sexual offences overall (from 52 420 in 2018/2019 to 53 293 in 2019/2020). Whilst the 2020/2021 financial year rape cases reduced to 36 330 reported cases (SAPS, 2020). The afore-mentioned statistics are those of rape, GBVF can be determined from other sexual-related crimes and serious crimes, such as murder. Thus, the crime statistics make it difficult for the actual determination of GBVF in the country.

High levels of violence, shaped by a range of highly unequal social relations, have been a prominent feature of South Africa both historically, as well as post-democracy (Djamba et al., 2015: 13). However, Morrell and Clowes (2017: 9), insist that this violence has not affected all equally. Women have been more likely than men to be held responsible for much of the violence inflicted upon them, which has also not historically been regarded as criminal or provided with effective legal remedies (Morrell & Clowes, 2017: 9). The lack of categorisation and recognition of GBVF as a crime, has led to unclear statistics of the crime in the country for a very long time (Morrell & Clowes, 2017; Vetten, 2014). Morrell and Clowes (2017), and Toker (2016), further explain that GBVF commissions are associated with many crimes and having to develop strategies to address these crimes has become difficult.

The legislative and policy reforms instituted responses to the problem of GBVF, have been in place for some time, and are well-developed in some instances (Bensouda, 2018: 21). Bensouda (2018: 21), further indicates that these developments have been uneven and fragmented, while the violence experienced by lesbian, gay, transgender and intersex individuals have yet to be adequately integrated into conceptualisations of, and responses to GBVF. Gorris and Touquet (2016: 16), suggest that certain sectors have also lagged behind in responding to the problem, including the post-school education and training (PSET) sector. Yet Amusa, Bengesai and Khan (2020: 21), assert that GBVF cases are not that easy to

address due to the broad meaning and different crimes that make up the phenomenon (Hayes, Abbott & Cook, 2016: 42).

## ***Literature Review***

### **Gender-Based Violence and Femicide (GBVF) in the Heis**

Anitha and Lewis (2018: 14), observe that the term GBVF is generally used to describe violence that occurs because of the normative roles and expectations associated with each gender, as well as the unequal power relationships between the genders within the context of a specific society. GBVF is seen by Chauke, Dlamini, Kiguwa, Mthombeni, Nduna and Selebano (2015: 109), to subjugate not only women, but anyone who does not conform to gendered forms of conduct, and anyone who is perceived as less-than normal, therefore deserves to be controlled, manipulated and violated. Amusa et al. (2020: 25), see GBVF as any act that is likely to result in physical, sexual or psychological harm or suffering to women, including threats or acts of coercion, arbitrary deprivation of liberty, private or public, in the family or community. Along the same lines, GBVF is the most misunderstood phenomenon. This is not because people do not know of, or about this crime, but is due to the broad use of this phenomenon that is considered a crime, but is not categorised as one (Anitha & Lewis, 2018; Lopes, 2016; Heise, 2015). Furthermore, Gould (2015:1 09), opines that the effects of the lack of significant research on GBVF is that this social ill remains poorly understood, both in terms of what it entails as well as its prevalence. Clear details about the other types of violence associated with GBVF are mentioned by Bhana (2016: 17), so as to include physical violence, domestic violence, emotional violence, economic violence, sexual violence, and intimate partner violence. This indicates that GBVF has been too stretched out and not categorised as a crime, but it is associated with crimes that are categorised.

To date, the dominant narrative and understanding of the phenomenon of GBVF seems to be that it is simply male-on-female violence (Bhana, 2016: 17). However, there are some unintended less helpful implications with such a construction. The first one is the implicit homogenisation of women as priori victims and as powerless with the corollary notion that, just because they are women, they cannot be perpetrators of GBVF (Gibbs, Dunkle, Washington, Willan, Shai & Jewkes, 2018; Anitha & Lewis, 2018). The second implication is that this social ill forms part of many categorised crimes in the country. In a sense Anitha and Lewis (2018: 17), deduce that a slap by a man to a woman is no longer identified as assault, but GBVF. When a report of a man who has raped a woman emerges, the same crime is identified as GBVF. This goes to show that a lot of people are not aware that the term GBVF is used to cater for acts that are against another gender, but the term is not recognised as a categorised crime. Phipps, Ringrose, Renold and Jackson (2018: 2), acknowledge that, while GBVF is most often directed at women and girls as the obvious bearers of the female and feminine, LGBTQI individuals may also experience GBVF, including on the basis of being gender non-conforming or not practising heterosexuality (Phipps *et al.*, 2018: 2). The Department of Higher Education and Training has a Policy Framework to address Gender-Based Violence in the Post-School Education and Training System (PSETS). This system is similarly premised on the dominant view of GBVF as male-on-female violence (DHET, 2019: 8). The Policy Framework, therefore, broadens the meaning beyond male-on-female violence to also encompass violence perpetrated against LGBTQI communities by heterosexual people within society. This policy framework clearly stipulate how the HEIs can go about formulating policies to address acts of GBVF (DHET, 2019: 8). However, it does not outline acts of GBVF on campuses as criminal acts, which then creates a sense of the HEIs taking GBVF related matters into their own hands, even though these acts contain crime elements, that must be responded to by the SAPS.

The impact of GBVF can cause immediate and long-term physical and mental health consequences for students. Survivors of GBVF experience higher rates of post-traumatic stress disorder, risk of re-victimisation, depression, substance abuse, and suicidality (Makama, Helman, Titi & Day 2019: 3). Mamaru, Getachew and Mohammed (2015: 30), suggest that compared to non-abused peers, student survivors of physical dating violence are more likely to use drugs, engage in risky sexual behaviour, and attempt or consider suicide. Female students who have been stalked before, experience higher levels of depression and anxiety than their peers who have not been stalked (Dhlomo, Mugweni, Shoniwa, Maunganidze & Sodi, 2012: 260). Violence may also be used to feminise men, or undermine their masculinity, ensuring that they are not exempt from some forms of GBVF (Dhlomo et al., 2012; Makama et al., 2019). The use of violence to institute and maintain forms of gender relations is also influenced in complex ways by perpetrators' ideas about their victims' race, disability, social class and citizenship status, amongst other factors. Kessi and Boonzaier (2018: 30), highlight how these factors similarly influence how others respond to instances of GBVF, as well as peoples' access to helping resources. GBVF also takes different forms in different societies and at different historical points (Potgieter, Eslens-Ziya & Shefer, 2017: 178). Potgieter et al. (2017: 179), further explain that the forms that GBVF come in are vast and this makes it difficult for this phenomenon to be suppressed. The HEIs could be able to respond to GBVF commissions more effectively if this phenomenon was categorised as a crime.

### Crimes Associated with GBVF

Crime in South Africa is categorised in different sections, Hull, Sheplavy and Hull (2015: 263), outline that the categories are Contact Crimes (CC), Contact Related Crimes (CRC), Property Crimes (PC) and Crimes Detected Because of Police Action (CDBPA). CC refers to those crimes in which the victims themselves are the targets of violence, or property is targeted and the victims in the vicinity during the commission of the crime are subjected to threats of violence, or the use of such violence (SAPS, 2018: np). Sibanda-Moyo et al. (2017: 30), identify the subcategories of contact crimes as: murder, sexual offences, attempted murder, assault with the intent to inflict grievous bodily harm (Assault GBH), common assault, common robbery, robbery with aggravating circumstances (Robbery aggravating).

CRC includes arson and malicious damage to property. These two crimes are closely related and involve damage to, or the destruction of another persons' property (often in order to punish such a person or entity), or to damage ones' own property for the purpose of insurance claims (SAPS, 2018). Boonzaier (2017: 72), suggests that PRC refers to crimes during which tangible property of an individual or institution is taken by criminal elements without permission, and in the absence of the owner/custodian of such property. This type of crime includes burglary at both residential and non-residential premises, theft of motor vehicles and motorcycles, theft out of or from motor vehicles and stock theft (SAPS, 2018: np). CDBPA is usually not reported to the police, it is largely dependent on the deployment of law enforcement personnel and employment of intelligence (SAPS, 2018: np). This crime is usually recorded after the apprehension of suspects in connection with following offences:

GBVF can manifest in all crime categories that are mentioned. However, GBVF acts are usually associated with sexual offences. Sexual offences are sexual activities that a person has not consented to, and it can refer to a broad range of sexual behaviours that make a victim feel uncomfortable, frightened or threatened (Sibanda-Moyo et al., 2017: 31). Schwark and Bohner (2019: 17), state that sexual offences include the following crimes: rape, sexual assault, attempted sexual offence, contact sexual offence. The crimes that are associated with GBVF in South Africa are many. Schwark and Bohner (2019: 17), further explain that GBVF in the country has most often manifested from individuals that are known to one another, whether in short-term or more permanent relationships. Following are the common sexual crimes that are experienced at the HEIs.

### **Intimate Partner Violence (IPV)**

Intimate partner violence is one of the forms of family violence dealt with by South Africa's Domestic Violence Act, 116 of 1998, (DVA, 1998: np). Kessi and Boonzaier (2018: 233), mention that those whom the law applies to include people who, are or were in an engagement, dating or customary relationship, including an actual or perceived romantic, intimate or sexual relationship of any duration, irrespective of whether these relationships are heterosexual or same sex. The Act defines domestic violence as including, among other things, harassment, abuse of a physical, sexual, emotional, verbal or physical nature, stalking and intimidation, as well as any other form of controlling behaviour.

### **Sexual Harassment and Stalking**

Sexual harassment is defined in labour legislation as unwanted conduct of a sexual nature that can take physical, verbal and non-verbal forms (Boira, Lopez del Hoyo, Tomas-Aragones & Gaspar, 2013: 21). It is noted that sexual attention becomes sexual harassment if:

- The behaviour is persisted in, although a single incident of harassment can constitute sexual harassment; and/or
- The recipient has made it clear that the behaviour is considered offensive; and/or
- The perpetrator should have known that the behaviour is regarded as unacceptable.

### **Sexual Assault**

Sexual assault as referred to by Bhana (2016: 19), refers to different forms of unwanted touching and sexual contact. The Criminal Law (Sexual Offences and Related Matters), Amendment Act 32 of 2007 (SOA, 2007: np), defines sexual assault as the unlawful and intentional sexual violation of another person without their consent. Sexual violation includes any act which causes direct or indirect contact between the genital organs or anus of one person or, in the case of a woman, her breasts, and any part of the body of another person or an animal, or any object, including any object resembling or representing the genital organs or anus of a person or an animal. It can also include unwanted kissing, as well as contact between one person's mouth and the genital organs or anus of another person, or a woman's breasts.

### **Flashing and Rape**

In terms of the SOA (2007: np), flashing is defined as exposing genital organs, buttocks, or female breasts to the view of others. Rape is an unlawful and intentional act of sexual penetration with another person without that person's consent. Sexual penetration can be vaginal, anal and oral (SOA, 2007: np). Bensouda (2018: 38), asserts that while acts of oral penetration are only considered rape when penetration is accomplished by a genital organ, in the case of vaginal and anal penetration, both penetration by any body part, or an object, constitutes rape. The mentioned crimes associated with GBVF are the most common crimes that are committed at the HEIs. The HEIs are then expected to address the mentioned crimes when committed at the respective campuses (Bensouda, 2018: 38). The response by the HEIs are expected to be that which satisfies the victims and dissatisfies the perpetrator. The clear categorisation of GBVF as a crime, can help the HEIs to be able to know when to involve the police and when to address such crimes by themselves (Bensouda, 2018: 38). The current unclear categorisation of the crime does not, however, mean that the HEIs should not respond to reported cases of GBVF on the campuses, because the lack of response by the HEIs to reported cases of GBVF, would only result in more cases occurring unabated.

## HEIs Responses to GBVF

The HEIs in South Africa experience high levels of GBVF. This has been heightened by mass march action that has been recorded over some time by students (Rennison & Addington, 2014: 159). Hearn and Howson (2019: 41), opine that many HEIs in the country have developed policies that are used to address reported cases of GBVF, which have a direct bearing on the fight against GBVF. Hayes, *et al.* (2016:43), mention that there is a policy on unfair discrimination and harassment (applicable to staff and students); disciplinary code for students (applicable to students) and, disciplinary code for staff members (applicable to staff). However, none of these policies provide a comprehensive definition of GBVF. Similarly, the sexual offences, sexual harassment, sexual misconduct, and sexual violence policies for a number of universities neither unpack what is understood by GBVF (Hayes *et al.*, 2016; Rennison & Addington, 2014). Evident from these policies are generic understandings of, and emphasis on, sexual harassment with limited to scant indications of the myriad permutations which shape both violence and gender. Furthermore, the policies are couched in a legal framework of response and remedial action, which need to be drawn upon as required, as opposed to a discourse or ethos, which ought to be cultivated not only in institutional spaces and practices, but also in academic programmes through teaching and learning encounters.

The response of the HEIs in SA is different. What is alarming is that there is a downplay by the HEIs and an underreporting of this social ill by victims. Shefer, Kruger and Schepers (2015: 98), are of the view, that despite the underreporting and the attempts by institutions to downplay incidents of GBVF on their campuses, this social ill just keeps on showing its face now and then at the HEIs and this just highlights the importance of addressing this social ill before many lives are affected and even lost. Adams, Mabusela and Dlamini (2013: 54), report that within the past two decades, universities have had to prioritise issues of sexual harassment, which is believed to be the precursor to GBVF. Most universities have therefore introduced policies and grievance procedures to deal with sexual harassment. While Adams *et al.* (2013: 54) might be correct about policies on sexual harassment, and that sexual harassment is normally the precursor to GBVF, the reality is that policies on sexual harassment may partially, but of course not fully, address GBVF because GBVF is broadly described and not criminally categorised.

Students and staff understand the consequences of sexual harassment because they are articulated in the sexual harassment policies of institutions. However, they do not have the same understanding of the gravity and consequences of GBVF, because the institutional policies do not address GBVF directly due to its broad meaning (Akpotor, 2013; Adams *et al.*, 2013). In the few institutions where there are policies that address GBVF directly, such policies are often not updated to ensure alignment with current legislation, regional and international conventions and protocol, as well as best practice. Many universities also lack the necessary support structures to address and respond to cases of GBVF (Adams *et al.*, 2013; DHET, 2017). Adams (2013), and Akpotor (2013) suggest that institutions that are not doing enough to prevent and eliminate GBVF on their campuses, articulate their failure to the broad meaning of the meaning of the term, Akpotor (2013:34), adds on to state that most of the HEIs' policies are not directly focused on GBVF, because some acts of GBVF are referred to directly, such as assault, rape or sexual harassment. This is a serious challenge that the institutions need to confront, and this can only happen if GBVF is clearly categorised as a crime and the police are greatly involved in addressing this crime.

## Police Response to GBVF

The SAPS, as the first point of contact in the Criminal Justice System (CJS), plays an important role in shaping victims' initial experiences of the CJS (Langa, Kirsten, Bowman, Eagle & Kiguwa, 2018; Perez-Ramirez, Gimenez-Salinas & Espinosa, 2013). While its responsibility is to respond to crime and conduct investigations, Landström, Strömwall and Alfredsson (2016: 3), deduce that the SAPS also has

an obligation to assist victims of GBVF to access other services in the CJS. One of these functions is defined in the Domestic Violence Act (DVA) 116 of 1996, which obligates the SAPS to assist victims of domestic violence, which includes aiding victims to find access to suitable shelters. The National Instruction 7/1999 on Domestic Violence guides implementation of the Act by defining the roles and responsibilities of officials and outlining steps to be taken once a domestic violence-related crime is reported (Lopes & Mpani, 2017: 13).

The instruction on victim empowerment is a comprehensive directive that require police officials to provide an accessible, effective and victim-friendly service by recognising and protecting the rights of victims of crime when victims report incidents and during the investigation process (Gravelin *et al.*, 2019: Lopes & Mpani, 2017). Based on the instruction, police officials have to satisfy four basic elements of victim empowerment, which involve emotional support, practical support, providing and receiving information, and referral to professional support services (SAPS, 2019: np). There is a perceived neglect on issues related to GBVF, both at a local and national level, and in the SAPS. In fact, Gravelin *et al.* (2019: 11) inform that the perception that GBVF is dangerously becoming normalised is made evident when survivors of GBVF believe that reporting cases will yield little or no results besides triggering further trauma. The implicit maintenance of the status quo lets GBVF go unabated. Marsil and McNamara (2016: 411), report that the lack of care and support from police and safety officers has contributed to the distrust between the HEIs and the SAPS. There is a perception that is held by the HEIs of SAPS not being correctly trained to address GBVF cases, and this perception is carried over by a number of people in South Africa.

## Research Gap

GBVF is a tremendous phenomenon that negatively impacts many peoples' lives directly or indirectly and has been investigated for a number of years by many different researchers (Nkwana & Mofokeng, 2017). This paper focuses on lack of categorisation of GBVF by the SAPS settings, which seeks to highlight the ramifications for the HEIs administrators and policy developers. The persistent gaps that are prevalent and continue to haunt and challenge the HEIs sectors and Higher Health towards guiding the learning communities to respond adequately to the incidents of GBVF, are yet to be identified addressed to inform policy and practice. Despite the growing awareness around the issue of violence in school and campus settings, more specifically against vulnerable groups, reliable and harmonised data on the prevalence of GBVF in South Africa learning communities is still hard to find. This could be due to a lack of categorisation of GBVF, which will continue to invade the learning communities. The delay by the SAPS to categorise GBVF as a contact crime, will influence negatively on obtaining accurate statistics from HEIs L. Such data will become even more scarce towards informing policy and practice, particularly in universities and research organisations. This study attempted to contribute to knowledge by building upon what has been discussed on the emergence of GBVF in HEIs, providing a further breakdown of how challenges, such as the need for quality GBV expertise or improved monitoring and evaluation of GBVF programming, as manifesting across different HEIs communities, should be addressed and adequately responded to. This study identifies both operational and systemic challenges faced by the HEIs, continually acknowledging the complexity and diversity of needs across the HEIs in order to achieve its intended positive outcomes for victims of GBVF in the HEIs. The data that was collected in this study related to acts of GBVF that are experienced at the HEIs. The challenge that was experienced during the collecting of data, was that of limited literature that is available on GBVF acts that occur at HEIs. Therefore, there is a need for more research on GBVF at places of teaching and learning. The education sector is supposed to be the sector that is driving research on GBVF because this sector caters its services to large quantities of people, and this sector is where educational activities such as research are supposed to be exercised. Hence, it is important that there is enough research done on GBVF in the educational sector, so that GBVF cases can be addressed accordingly at all places of learning.

## Material and Methods

A meta-analysis is considered to elaborate the findings of a study (Cheung, 2019: 387). In the meta-analysis, the implications that are caused by lack of categorisation of GBVF as a crime have been identified through systematically reviewing and synthesising relevant published research. Meta-analysis is a methodology employed to synthesise the outcomes of various studies related to the same topic or outcome measured (Combs, Crook & Rauch, 2019: 2). It is typically conducted as a quantitative procedure geared toward the comparison of effect sizes across a variety of research studies. Qualitative meta-analysis, also referred to as meta-synthesis, follows the same replicable procedures of a quantitative meta-analysis; however, it is interpretive rather than aggregative (Combs, Crook & Rauch, 2019; Eisend, 2017). Different academic databases were therefore searched to identify relevant research on the implications that are caused by the lack of categorisation of GBVF as a crime. The results were further categorised based on the implications of the lack of categorisation of GBVF as a crime on HEIs' ability to respond to the crime (Eisend, 2017: 25). Several steps were followed in the process of synthesising the facts presented in the various studies. Firstly, information on GBVF was extracted. Secondly, the implications caused by the lack of categorisation of GBVF as a crime, on the HEIs ability to properly respond to the crime were addressed. Finally, discussions are provided, and recommendations are proposed.

## Results and discussions

Anecdotal evidence and suggests that there is still a lack of understanding regarding this phenomenon by some women on men. Without proper categorisation of this phenomenon, many people will keep on misusing this term and how both the criminal justice system and the HEIs should respond towards servicing the victims or survivors. The below discussion contextualised the challenges and provide with the possible solutions.

## Conceptualising GBVF

Gender is used to differentiate people as either male or female, with these divisions informed by individuals' biology, as well as their demonstration of certain behaviours, abilities and capacities (Stoll, Lilley & Pinter, 2017: 33). While Clark (2017: 389), asserts that these gender constructs and categories change over time and vary widely within and across cultures, most societies value differently the capacities, abilities and traits attributed to men and women, with those defined as feminine often treated as inferior to those defined as masculine, and this has the effect of causing unequal relations between men and women on a range of dimensions (Landström, Strömwall & Alfredsson, 2016: 4). Within the PSET sector, Joseph (2015: 127), outlines that some lecturers position themselves as the gatekeepers to the completion of the module, they would make sexual requests to students, should the student decide not to heed to the sexual request, they will be threatened with their marks and even badly treated in class, this may then lead the student to not coming to class or performing badly in class (Joseph, 2015: 127).

There is also a close and intimate relationship between gender and sexuality. In the same way that societies associate abilities and behaviours with specific bodies, so they similarly map sexual practices and expression onto specific bodies (Kessi & Boonzaier, 2018; Kaur & Ahuja. 2019). Clark (2017: 302), states that dominant conceptions of gender also assume that there are only two sexes, rather than a spectrum, and that people's gender identities will always correspond with their bodily features. Closely linked to this is the belief that people are only attracted to those whose sex is different to their own, constructing heterosexuality as the only normal acceptable form of sexual practice (Makama et al., 2019: 4). Jones, Boocock and Underhill-Sem (2013: 38), further inform that this leads to heterosexuality, men's and women's behaviour and gender expression being closely policed in many societies to prevent



deviation from gendered norms (Makama et al., 2019: 4). Where people do not comply with these social expectations, violence, abuse, and discrimination may be employed to force conformity, to punish, or to assert dominance (Jones et al., 2013: 38). Consequently, while both men and women experience violence, the nature of the violence they experience is distinctively gendered. The term GBVF has thus been coined in recognition of this close relationship between gender and violence.

Puigvert, Valls, Garcia Yeste, Aguilar and Merrill (2019: 365), indicate that GBVF attacks are most often directed at women and girls as the obvious bearers of the female and feminine. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals may also experience GBVF, including violent attacks that are based on being gender non-conforming or not practising heterosexuality. Bhana (2016: 20), also points out that violence may also be used to feminise men, or undermine their masculinity, ensuring that they are not exempt from some forms of GBVF either. The use of violence to institute and maintain forms of gender relations is also influenced in complex ways by perpetrators' ideas about their victim's race, disability, social class and citizenship status, amongst other factors (Marsil & McNamara, 2016: 408). These factors similarly influence how others respond to instances of GBV, as well as people's access to helping resources.

Dhlomo et al. (2012: 260) outline that the management of GBVF cases in HEIs is not as easy as should be due to the broad meaning and many cases that occur at the campuses. Having understood that this crime manifests in different forms, Ekore (2012: 61), is further of the view that having to directly address it can be a difficult task for any HEIs. Dhlomo et al. (2012: 260), explain that unlike the crime of assault, that can be identified from an attack of one person on another without much harm. GBVF can be any act of sexually harassment, assault, and even murder of a person (Adams et al., 2013: 54). Having to understand each form of GBVF and addressing each at its own merit, would make the whole process better if GBVF is categorised as a crime. This would mean that when a case of GBVF is reported, there would be a need to look for the categorised crime that the reported crime falls part of.

### **Categorisation of GBVF as a Crime**

GBVF can take many forms depending on the type of relationship that is its context and the type of power being exerted (Dolan, 2014; Norman, Aikins & Binka, 2012; Kapur. 2013). The lack of categorisation of this phenomenon leads to the misunderstanding of it, since it is perceived differently by many. GBVF is perceived by Kritz (2014: 22), as a violation of the right to identify, since it reinforces and reproduces the subordination of women to men, while Dolan (2014), and Kapur (2013), see it as a lead to a distortion of a human being of the right to affection, since this violence is the antithesis of any expression of that sort. Adams et al. (2013: 54), deduce that GBVF is a violation of the right to personal development, since its victims suffer a form of psychological paralysis which prevents them from developing their creative potential, and the violation of many other human rights. Such a term would always prove to be difficult to categorise, but the lack of its categorisation only exacerbates the problem that comes with it.

There are many victims of GBVF who do not report their cases to the police because they perceived GBVF as a social phenomenon rather than a crime. Such considerations contribute to underreporting a much wider grey area when coming to determining the number of GBVF cases being reported (Lopes & Stone, 2018; Kaur & Ahuja. 2019). Marsil and McNamara (2016: 409), mention that rape is considerably under-reported to the police, especially by the HEIs. DeLong, Graham, Magee, Treves-Kegan, Gray, McClay and Martin (2018: 318), assert that only one in nine women who had been raped and had physical force used against them reported the attack to the police. Shefer et al. (2015: 99), insist that out of 12 women that get raped, only one comes out to report the crime to the police, also, only one in 13 women raped by a non-partner report their matter.

Human rights are all important, and it is impossible to recognise or defend some of those rights but not others (Mogstad et al., 2016; Marsil & McNamara, 2016). Women's rights should receive the same attention as the rest and should be considered in conjunction with those regarded as being the most pressing or important human rights (Langa et al., 2018: 21). An integrated approach to human rights is mentioned by Hall and Hearn (2018: 36), as the only way to ensure respect for each one of those rights and thus prevent them from being reduced to mere formal categories lacking in substance. Ali (2018: 7), informs that GBVF is in most cases looked at as a crime that is perpetuated by men on women, this has in some cases resulted in the misuse of this phenomenon by some women on men. Without proper categorisation of this phenomenon, many people will keep on misusing this term for their own mischievous ways (Langa et al., 2018: 22). These days, social media is being used by many people, and some fake GBVF calls have been made on social media platforms. It is on social media platforms that people's images have been tainted and only later, the victim apologies for their mischievous acts. For HEIs to be able properly address acts of GBVF on campuses, GBVF must be understood.

### **HEIs Approach to GBVF Cases**

The magnitude of GBVF in South Africa calls for the public to develop and adopt counter discourses that condemns it, starting from their immediate surroundings, including in their families and communities and even HEIs, both in private homes and public spaces. In fact, this is everyone's responsibility, whether man or woman (Oosterveld, 2014; Kritz, 2014; Tamilarasi & Rani. 2020). Oosterveld (2014: 110), emphasises the importance of speaking out against GBVF because, it is more costly to be silent. Tamilarasi and Rani (2020: 36), suggest that the silence on the issue implies that one is either accepting GBVF as normal or denying the far-reaching consequences of GBVF. Furthermore, Kritz (2014: 26), agrees with Tamilarasi and Rani (2020: 36), suggestion that the silence surrounding GBVF continues to be widespread in South Africa despite the extensive media coverage of some particularly gruesome cases. Being silent means that men can continue to perpetrate acts of GBVF unchallenged, and that survivors of such violence are expected to also remain silent in accepting their ordeals (Guerrero, C'ardenas, Romero & Ayma, 2021: 473). A vital step in the fight against GBVF is to break the culture of silence and dismantle popular misconceptions and myths on GBVF, which is precisely what such placards and posts as those selected for this study are doing.

GBVF has become a norm in South Africa's HEIs. The recognition of this fact is the first step in taking a clear stance against GBVF and is one of the changes of ideology and/or behaviour that can be brought about by counter-discourse (Guerrero et al., 2021: 478). By discursively opposing and rejecting GBVF, Kritz (2014: 26), is of the view that the HEIs are not only raising awareness against the issue, but are also condemning men perpetrating or excusing GBVF or remaining silent thereof, while at the same time calling for a safe campus space for all students. This cannot be achieved without prioritising the issue of the safety of vulnerable students. Puigvert et al. (2019: 361), indicate that awareness on GBVF may have a positive impact, but the level of understanding of the phenomenon plays a more important role. The ability of proper response to GBVF cases by HEIs, rests upon the meaning of the phenomenon. If a thought phenomenon is not clearly categorised, awareness and other strategies to address it, would be difficult to implement.

Kaur and Ahuja (2019: 31), state that broad association of GBVF to certain crimes, can force organisations to have different departments to address reported cases of GBVF. Hence, GBVF matters are usually dealt with by multiple structures within the HEIs, which includes student affairs, human resources/employee relations, transformation units and legal offices (Hartmann, 2015: 290). Hartmann (2015: 291, further indicates that on their own, each of these structures has limitations. For example, where responses are located in student affairs, this may exclude or be a barrier to assistance to staff and other workers. Both legal offices and employee relations can face conflicts of interest in attending to complaints as they may be oriented to representing their institution's interests, as well as both those of the

complainant and often also the perpetrator (Hartmann, 2015: 291). Transformation units, like these other structures, may lack institutional authority and their personnel be outranked by the members of staff they may be required to investigate (Kaur & Ahuja, 2019; Hartmann, 2015). Where multiple structures form part of an overall response, a clear identification of the core matter has to be clear, if the results are to have much effect of the problem to be addressed.

### ***SAPS Response to GBVF***

There has been a perceived neglect on issues related to GBVF, both at a local and national level in the SAPS. In fact, the perception that GBVF is dangerously becoming normalised is made evident when survivors of GBVF believe that reporting cases will yield little or no results besides triggering further trauma (Gibbs et al., 2018: 205). The implicit maintenance of the status quo lets GBVF go unabated. Canli and Kaya (2016: 229), report that the lack of care and support from police and safety officers has contributed to the distrust in the government because of the misconceived and misplaced belief that sexuality is a personal and private matter that should not be spoken of in public and that a woman's sexual experience is shameful, whether chosen or not (Canli & Kaya, 2016: 229).

The SAPS are said to not be interested in ensuring that proper services are constantly accessible to victims of GBVF (Lopes & Stone, 2018; Kaur & Ahuja, 2019). There is continued criticism that the quality of services rendered to women and children in the SAPS is inadequate and unsatisfactory (Gibbs et al., 2018; Canli & Kaya, 2016; Amusa et al., 2020). Victims have expressed dissatisfaction with the police, mainly because the police are slow to respond when GBVF incidents are reported (SAHRC, 2018: 13). Canli and Kaya (2016), and Kaur and Ahuja (2019), have also revealed that, victims are not content with the SAPS because at times, the organisation fails to adequately protect them as victims (Stone & Lopes, 2018: 4). This usually happens when the police fail to arrest the suspects but choose to request the victim to go back and negotiate with their partners.

Bensouda (2018: 39), mentions that many police stations have police officials that are not adequately equipped to deal with victims of crime. The attitude of frontline officials also raised concern, which, to some extent, questions the standard of training of officials at station level. To demonstrate the extent of the problem, police officials are usually impatient, insensitive and lack empathy, tact and discretion when dealing with victims. The situation is worse when the same victim, who previously reported a crime and withdrew the case, reports the same crime again (Gibbs et al., 2018; Amusa et al., 2020). While officials are provided with training on the victim's charter and DVA specifically Bensouda (2018), and Stones and Lopes (2018), opine that it is not clear what the impact of the training provided is, as so many mismanagements of Victims of GBVF by the SAPS keeps on getting reported.

The role of frontline officials is to receive the victim or answer the victim's telephone call when they report a crime, refer the victim to where a statement will be taken and then take further actions as required, such as referring the victim to other institutions (Boira et al., 2013: 26). Clark (2017: 301), also indicates that these responsibilities are often rushed to the Family Violence Child Protection Sexual Offences (FCS) office, since this Unit has the role to investigate both crimes committed in the family environment and against children. When coming to responding to cases that occur at HEIs, Maquibar, Hurtig, Vives-Cases, Estalella and Goicolea (2018: 211), advise that the call has to be made to the police to request that the police come to the HEIs, or the victim can report the crime to the police. The police can be called to respond to all forms of GBVF that forms part of categorised crimes. Meaning the police cannot respond to calls of a victim that has been verbally abused by their partner, but such an act does constitute to be identified as a GBVF attack.

### ***Future Research***

It was highlighted above that the broad meaning and lack of categorisation of GBVF as a crime makes it difficult for HEIs to properly respond to reported cases of GBVF. It is therefore recommended that more research be conducted on the implications on the lack of categorisation of GBVF as a crime; backed by far more philosophical training that should be conducted. For HEIs to be able to address GBVF cases, they should know the clear meaning of the crime and its elements. HEIs are places where teaching and learning takes place, these places are where many people come together to produce academics. Without proper regulations, lawlessness can take place, setting these places of teaching and learning as no go areas. Future research should focus on providing clarity on the meaning of GBVF, the importance of it being categorised as a crime and how. Secondly, future research efforts should be streamlined to focus on understanding the broad meaning GBVF and how that hinders cases of GBVF from being addressed at HEIs.

### ***Limitation of the Study***

Although this paper attempted to include as much literature as possible in the analysis, this study had some limitations, and they need to be taken into consideration when reviewing this study. Firstly, the study was based on content analysis, conducted as desktop research for a doctoral inauguration lecture, with constrained time and budget; hence mostly academic open-access papers were considered. Secondly, the research considered keywords such as “gender-based violence and femicide”, “SAPS”, “higher education institutions”, “crime category, training”, which poses the possibility that some sources might have been disregarded for not including in their keywords the set of keywords used for this study.

### ***Conclusion***

This paper has stipulated the problems that come with the lack of categorisation of GBVF as a crime. It has outlined the confusion that leads to misunderstanding by the HEIs when they develop strategies to address cases of GBVF on campuses. Mokgatle and Menoe (2014: 8), suggest that from the categorisation and clear identification of GBVF, the process of reporting any case of GBVF at the HEIs should be clearly detailed, as must be the roles of all individuals or structures involved in the reporting of matters. The clear identification of the phenomenon can help reduce fragmentation, cases would ultimately be reported to one central point, rather than multiple points (Joseph, 2015; Llamas, 2013; Mokgatle & Menoe, 2014). From this paper, it can be noted that GBVF is a complex, multi-faceted problem that requires interventions at the individual, relationship, community levels of society and even campus community level. Maquibar et al. (2018: 212), add on to suggest that the police cannot be solely responsible for the eradication of GBVF at the HEIs. HEIs should have a relationship with the SAPS to respond effectively to calls for help; to treat victims with dignity and respect; to prioritise the safety and security of those affected by GBVF attacks and to assist them to find access to suitable shelter. The involvement of the police in the strategies used by the HEIs to respond to cases of GBVF on campuses can greatly assist the HEIs to respond robustly to reported cases of GBVF on campuses.

### **The Following Suggestions and Recommendations Are Provided:**

#### **Formal Procedures to Address Reported GBVF Cases at Heis**

Where formal procedures are followed these must be set out, including the timelines for the investigation and disciplinary process. Policy must detail the steps to be followed in conducting an investigation and ensure that regular feedback is provided to the complainant regarding progress. Policy

should also encourage disciplinary tribunals to request expert testimony around any of the issues under consideration. Disciplinary bodies are encouraged to think beyond purely adversarial approaches and to explore the use of inquisitorial methods for gathering and hearing evidence.

Complainants need to be prepared for disciplinary proceedings, including their cross-examination. Staff, in particular, need to be made aware of the possibility that the matter may go to the Commission for Conciliation, Mediation and Arbitration (CCMA) in the event of the perpetrator being dismissed. This may entail having to repeat their evidence. Disciplinary actions, as well as measures intended to assist perpetrators to change their behaviour (where such programmes are indicated), should also be detailed in the policy, along with any appeal processes that may be followed.

### **Criminal Matters**

As was previously noted, rape is always a crime while some forms of sexual harassment also fall within the ambit of criminal law. This entitles complainants to pursue the harms done to them via institutional complaints' structures, in parallel with the criminal justice system. Complainants should thus be informed of these dual channels of complaint by reporting structures. In turn, reporting structures may not refuse to investigate, or otherwise pursue, complaints solely on the basis that criminal charges have been laid. Acts such as rape, assault with intent to cause grievous bodily harm, as well as some forms of sexual harassment can constitute forms of gross misconduct and must be dealt with as such, irrespective of the status or outcome of criminal proceedings. Disciplinary tribunals constituted to hear such matters must be reminded that decisions in disciplinary matters are made on a balance of probabilities, rather than by utilising the criminal court standard of proof beyond reasonable doubt. Further, because disciplinary tribunals are not criminal courts, they are not entitled to evidence gathered through the police investigation (such as the medico-legal evidence).

### **Campus Protection Orders**

To protect complainants' safety, universities and colleges must develop, if these do not already exist, orders prohibiting contact between the complainant and alleged perpetrator. These should include transferring alleged perpetrators to different classes or residences. Institutions must not only provide protection from the alleged perpetrator but must also prevent retaliation and victimisation by others, including secondary victimisation. Where information about a case is circulating in the campus community more broadly, it is important that institutions provide clear, factual communications about processes and their outcomes. This should be done in a way that does not compromise the confidentiality of the affected parties. Steps should be taken to address any polarisation or conflict emerging from individual reports.

### **Training the SAPS and HEIs Employees that Deal with Reported GBVF Cases**

Policies must stipulate that any person investigating or prosecuting a complaint, or supporting or hearing a matter, receive comprehensive training prior to their involvement in any GBVF matter. This includes security personnel, regardless of whether their services are outsourced. Institutions must therefore also commit funds to such training.

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