

The Imperilled Right to Life, Femicide Crisis in South Africa: Critical Considerations for Legislators

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Abstract: Femicide is one of the most atrocious acts that are principal causes of premature deaths of women and girls who experience gender-based violence in South Africa. These violent acts that are mainly perpetrated by their male counterparts include inter alia, physical, emotional, psychological and economic violence. Constitutionally, everyone has the right to life, however; the mass killings of women in the hands of males, categorically implies clear inadequacies of the state apparatus to guarantee this valuable human right to women and girls in South Africa. Consulted literature reveals that little has been done in terms of scholarly interrogation of the right to life for women against the heinous femicide crimes committed with no regard for women's human rights in South Africa. Aim: to explore the deprivation of right to life of those who have fallen victims to the national crisis of femicide. Methodology: for the purpose of this article, the author adopted a qualitative research approach where a variety of non-empirical methods and techniques were employed. The methodological inclination entails a desktop analysis by a means of intensive literature study where information produced has been scholarly scrutinised through a process of intellectual analysis, categorisation, integration, reflection and synthesis where meanings were ascribed to the main themes of this article. Findings: It has been deduced that there are legislative shortcomings that need urgent lawmakers' attention in order to protect women's right to life. This implies that femicide law is vital to curb the spate of arbitrary killings of women and girls in South Africa. Additional measures to consider include school-curriculum pre-emptive programmes and community-based advocacy programmes to create a society that honours women's right to life.

Keywords: Femicide, gender-based violence, human rights, right to life, women.

INTRODUCTION

Campaign against brutal and lethal Violence perpetrated against women and girls has been increasingly gaining traction over the past four decades. It is a matter of fundamental human liberties and public health, which requires concerted efforts from different societal stakeholders in order to mitigate it and ultimately eradicate it. World over, there have been numerous efforts ranging from scientific, social and political initiatives directed at the resolution of violence against women and girls. These efforts led to legislative processes aimed at providing solutions to alleviate and eventually prevent the persistence of killing of women and girls. Violence is one of the social ills that deprives women and girls of their right to dignity, liberty and ultimately their right to life. Consequently, these violent acts have resulted in cases where women and girls have been murdered (Zara and Gino 2018). The implication is that gender-based violence is one of the most unpalatable crimes that communities, interest groups, civil society movements and governments in various parts of the world are dangerously confronted with. Fundamentally, this women's human rights violation often leads to a regrettable number of fatalities that victims succumb to on a daily basis. Violence

perpetuated by men against women is a predicament that bars women from leading their lives and making optimum contribution to the communities they belong to as well as the economy in any given country. In many instances, the reactive mechanisms that many governments adopt to address this elusive crime extract huge cost from the health system and criminal justice system and post-traumatic stress to the close relatives and associates of those who are murdered as a result of gender-based violence (United Nations Office on Drugs and Crime 2014).

Upon confronting this longstanding social vice, rhetorical policy pronouncements are seemingly the principal reactive mechanisms that the South African government has demonstrated in the past two decades despite the unprecedented spike in femicide cases across the country. For example, scholars such as Londt, Terblanche and Kotze (2006) published a study with compelling evidence pointing to the fact that violence against women has reached a critical point in South Africa. They cited that at the time government recognised it was time to respond to brutal effects of all forms of violence against women and children. The government suggested that the implementation of effective strategies were urgently required. Nonetheless, the political will expressed by the government has not transformed into any tangible commitment to address this pressing human rights violation that only gets state attention for formality and public relations purposes where the state continuously

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fail women and girls who get murdered on a daily basis.

Despite an exceptional work that advocacy groups have done to persuade the state to enact laws focusing on domestic violence and sexual crimes, the level of violence, which in many cases resulted in fatalities, has exponentially increased. Perhaps this is an indication of the state, its statutory and policy framework inadequacies to address the perpetually increasing rate of violent crimes and femicide in South Africa. This is also an indication that the state is not honouring and protecting human rights of the victims of these crimes as the Constitution of the Republic 1996 prescribes.

Apart from its local statutory and policy framework, South Africa is a signatory to a wide range of global, continental and regional treaties and frameworks that are aimed at protecting and promoting the rights of women and girls. These treaties and frameworks put South Africa in a position where it is involuntarily required to enact and efficiently enforce laws and policies to curb gender-based violence in pursuance of its international obligations. *Inter alia*, the treaties and frameworks that South Africa is party include the renowned Universal Declaration of Human rights (which contains a wide range of articles on human rights), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which is about advancing women's human rights. Furthermore, South Africa is also an active signatory to the African Charter on Human and Peoples Rights (African Charter). The Protocol in the African Charter on Human and People's Human Rights of women in Africa (Maputo Protocol) is one of the trailblazing initiatives that calls on member states to pay more attention to women's rights challenges (Human Rights Commission 2018). This might symbolise South Africa's political willingness to address the challenge of brutal crimes committed against women and girls. However, it should be borne in mind that political will does not necessarily translate into action. This implies that political will is a futile exercise if it is not enacted through tangible commitment to laws and policies that are sanctioned to address the identified challenges.

The rapid increase of femicide anomaly is attributed to a variety of the past and present social, economic, political and structural configuration of South Africa. These contributing factors *inter alia* include the brutal colonial past, segregation laws that triggered violence reaction from the excluded population groups, access to fire arms, cultural customs embedded in patriarchal

domination, unequal share of income, unemployment and poverty (Motimele and Ramugondo 2014).

Gender-based violence perpetrated against women and girls in South Africa mirrors the misogynous repression that women across the world still encounter on a daily basis. The unprecedented spike in femicide atrocities has masked it as a new phenomenon in South Africa. However, this has been deeply entrenched in the pre-democratic (before 1994) and post-democratic (1994 onwards) (Goldblatt 2018). Based on the afore-described background and context, this article is systematically delineated into a wide range of sections. These sections *inter alia* include conceptual contestations around the concept femicide, human rights theory, statutory and policy framework, women's right to life in South Africa, the state of femicide in South Africa, factors connected to femicide and conclusions.

CONCEPTUALISATION OF FEMICIDE

There is an expansive scholarly discourse that revolves around the most apt conceptual clarification of the term 'femicide'. This has led to an intellectual environment where there is no concurrence on a universally accepted conceptualisation of the concept femicide. Nevertheless, there is a wide range of conceptual underpinnings that are suitable for the crux of this article. The concept femicide emerged in the beginning of the 19th century where it was applied to connote the killings of women (Saccomano 2015).

However, the prominence of the concept femicide can be traced back to the International Tribunal on Crimes Against Women in Brussels (Belgium) which occurred in 1976. Scholars and women's rights activists convened to deliberate on a wide range of crimes (violent and subtle discrimination) committed against women across the world (Widyono 2008). Among the delegates was the renowned women's rights activist and scholar Dr Diana Russell. With her seminal and pioneering work in gender studies, she made immense contribution in lexicalising the concept femicide as an endeavour to separate the killing of women from the concept of gender-neutral murder. The argument was that the term (murder) does not accurately capture the lived experiences of inequality, oppression and systematic violence against women and young girls. Dr Russel denoted the concept femicide to killings of females by males because they are females (Grzyb, Naudi and Marcuello-Servós 2018).

Additionally, according to Manjoo (2012:6), “femicide was first defined as the murders of women by men motivated by hatred, contempt, pleasure or sense of ownership of women. Subsequently, it was defined as misogynist killing of women by men”. Overtime, this concept has grown beyond misogynous oppression and killing of women by men motivated by the socially constructed right to act in such a manner, their superiority feeling over women, sadistic desires towards women and commodification of women where men have a sense of entitlement over women.

Furthermore, the Vienna Declaration on Femicide beheld femicide as a multifaceted phenomenon that revolves around murder of women and girls because they are of a different gender where patriarchal social constructs have labelled them as vulnerable and without the physical capacity to defend themselves against atrocious violence that they are subjected to by men. Among other critical dimensions, the Declaration posits that femicide takes a wide range of forms. These *inter alia* include;

- the killing of women resulting from domestic violence where the intimate partner is the likely perpetrator of this violent crime;
- the torturous and misogynist killing of women;
- dowry-related murdering of women and girls;
- murdering women and girls on the basis of their gender identity and sexual orientation;
- witchcraft;
- other killings linked to organised crime and human trafficking (Grzyb *et al.* 2018).

Although femicide is generally known as a crime that is mostly perpetrated by intimate partners, for the purpose of this article the author also adopts femicide concept derived from the Canadian Femicide Observatory for Justice and Accountability where the concept is broadened to a crime that is not limited to intimate partner of the victim (non-intimate femicide). Thus, According to the Canadian Femicide Observatory for Justice and Accountability (2018), “non-intimate femicide involves the killing of women by someone with whom they did not share an intimate partner relationship, encompassing a broad range of femicide subtypes such as familial femicide, ‘other perpetrator’ femicide and stranger femicide”. To place both concepts (intimate and non-intimate femicide) into

this article’s context, one would further it by citing a simple concept provided by Mohanty, Maddileti, Kumar, Mohanty, Ready and Bhuvan (2015), where they posit that “femicide is considered as a killing of women, regardless of motive or perpetrator status”. The application of both intimate and non-intimate conceptual approach to this study allowed the author to investigate both contexts with an aim of broadening the discussion and analysis of women’s arbitrary killings trajectory in South Africa. The former limits one to focus only on those murders that are committed by intimate partners of the victims. Whereas the latter probes other parties (other than intimate partners) that commit these crimes. The rationale for delving into both phenomena is in line with the conclusions of the study where overarching mechanism are recommended to address this national crisis rather than narrow interventions.

HUMAN RIGHTS THEORY

To derive contextual understanding around the critical issues of femicide, diverse researchers have approached this topical issue through various theoretical lenses and perspectives. These lenses and perspectives *inter alia* include a feminist, sociological, criminological, human rights and de-colonial approach Corrida, Marcuello-Servós, Boira and Weil (2016). For the purpose of this article, the author has elected to employ the human rights theoretical approach. This is inspired by the fact that this article focuses on one of the most central civil rights. Thus, approaching it through the human rights lens signifies apt nexus between the right to life and women’s human rights. Based on recent statistics of gender-based violence and femicide perpetuated against women and girls, there is a need to interrogate the level of women’s human rights insulation by the state as the constitution guarantees.

Human rights are an outcome of a wide range of philosophical discourses that have been ongoing for more than 20 centuries. This mainly transpired in European communities and their colonial descendants. The underlying purpose of those philosophical debates was based on the quest for moral principles of political configuration and behaviour that is in line with the will of those that the political establishment governs over. The instigation of those philosophical discourses was also due to the fact that people felt discontent with the orthodox notion where the determination of what was deemed right or good was exclusively in the hands of the ruling elite (Heard 1997).

Marks (2014:1) posits that

“Human rights constitute a set of norms governing the treatment of individuals and groups by states and non-state actors on the basis of ethical principles regarding what society considers fundamental to a decent life. These norms are incorporated into national and international legal systems, which specify mechanisms and procedures to hold duty-bearers accountable and provide redress for alleged victims of human rights violations”.

Nickel (1987), contends that human rights are purposed to provide security, which is essential to create conditions for people to lead a minimal good life. Thus, national and international governance institutions are characteristically well positioned to ensure that conducive environment exists in order to secure fundamental human rights (Fagan 2015).

Additionally, Walen (2019) opines that the fundamental purpose of rights is to provide normative principles in which human beings can pursue their own aspirations while they treat each other as free as possible. However, these rights come with responsibilities and limitations. Human rights are instruments that are capable of existing beyond the determination of a specific society. As such, they make provisions for acceptable benchmark whereby states and people from other parts of the world may castigate the nature and application of laws that governments pursue in their respective countries (Heard 1997).

The premise, in which this article is based on, is the interest rights theory. Proponents of this theory posit the primary purpose of human rights is to protect, promote and honour certain fundamental human interests. Securing individuals' interests is the principal ground in which human liberties are morally defensible. Among these interests is security of human life (Fagan 2015).

Based on the afore-ascriptions from prominent scholars on human rights, one would infer that it is incumbent on the state's security and justice cluster to insulate civil liberties that are enshrined in various constitutions of different states or governments across the world. In this instance, the South African government has an involuntary responsibility to ensure that human rights of the people it presides over are adequately insulated from arbitrary violation. Security

of human life which, forms part of fundamental human rights enshrined in the Bill of Rights should be the bedrock of state's responsibility to its citizens.

WOMEN'S RIGHT TO LIFE IN SOUTH AFRICA

According to the United Nations (2015), “everyone has the right to life, liberty and security of person”.

Although a foundation of activism against violence against gender-based violence was laid in the 1970s, it took many more years to convince international community to categorise violence against women and girls as a serious violation of civil liberties of the victims. Nonetheless, in the 1990s gender-based violence gained prioritisation status where various governments and international human rights institution jumped into the bandwagon to advocate for women's rights. To achieve this milestone, resolute efforts were made by persevering women's rights movements across the world to persuade states and social justice institutions to deliberate on the issue of gender-based violence as a human rights concern and recognise the fact that it is a gross human rights violation that jeopardises and compromise human development and security (United Nations 2014). The fact that activism against the violation of women's rights gained traction in the 1990s despite the Universal Declaration of Human Rights in 1948 is an indication that women's rights have been inadequately honoured and protected by their respective states across the world. It took concomitant and persistent efforts from women's rights advocacy groups to eventually attain the attention that women's rights require.

Women and girls are deprived of the right to life as a result of a wide range of gross violation of human rights through physical, emotional, political, mental and economic violence. Campbell in Kayir and Kalav (2015) in her article entitled “All women are at risk of femicide” opines a worrying and realistic fact that lives of women are not secured and guaranteed as many constitutions across the world prescribe. Thus, one would infer that the right to life for women and girls has not received the state's commitment that it deserves. This can be substantiated by the fact that the current government has been in power since 1994. However, the provision and honouring the security of person and right to life for women and girls as the principal duties of government have not lived up to the expectations of a democratic and constitutional Republic. The current reactive initiatives such as the summit on gender-based violence and parliamentary process might not yield any

long-term solution on the basis that governments ought to be pre-emptive especially on issues that have direct impact on the rights of certain segment of the society (in this case the endless killings of women and girls). Based on the statistical presentation and analysis below (c.f. the state of femicide in South Africa), one can conclude that government has been passive and unresponsive to this crisis for far too long.

Presently, the government has demonstrated political will to address gender-based violence and femicide. However, it should be borne in mind that political will is a futile exercise since the will does not always translate to action. Action will always revolve around what is known as 5C protocol; which are commitment, content, context, capacity and, client and coalitions (Cloete and De Coning 2015). Based on the afore-ascriptions around the 5-C protocol, one would infer that the South African government has not met the expectations around the essential 5-C protocol. Numerous scholarly contributions mainly point to shortcomings around the application and implementation of statutes to maintain law and order within the Republic. As such, well documented laws and policies demonstrate inadequacies due to lack of honouring the 5-C protocol by those entrusted with statutory and policy obligations.

The protection of women's human rights must be a continuous priority that needs government's commitment and action rather than constitutional textual rhetoric to achieve the abstract value of justice. States must protect the rights of women in order to conform to the legally binding international human rights principles (Cook 1995).

The lack of effective pre-emptive and efficient responsive measures by the state to priorities and tackle senseless killings of women and girls is a clear indication that the state is complicit due to its failure to diligently honour Section 11 of the Constitution of the Republic of South Africa. Moreover, femicide should be perceived as dual culpability crime. This implies that the state shares the culpability due to its failure to protect the victims. On the other side of the coin, the perpetrators of these violent and inhumane murders of women and girls are also responsible for depriving women of their right to life (Sanford 2008).

THE STATE OF FEMICIDE IN SOUTH AFRICA

Violence against women and girls engenders gross implications to those whose lives are cut short and

those who must live and relive the traumatic experience of the heinous criminal acts committed against them by men. Those who survive these brutal acts ultimately suffer from various health problems ranging from physical, psychological, emotional, sexual and reproductive challenges as a result of the traumatic experience they bear in the aftermath of violent crimes that they have experienced. One would infer that violence destruct families and society as a whole. There are serious implications that are associated with the afore-described dimensions. Based on the status quo, the state has not placed more emphasis and resources on functional programmes to assist those that are affected by gender-based violence. The current *modus operandi* revolves around punitive measures meted against perpetrators in cases where the prosecutorial authorities successfully convict the perpetrators of the crime. As such, it is categorical that there is a lack of a twofold approach where the state metes out punitive and corrective measures upon the perpetrator where a parallel process of victim-centric approach is enacted to effectively assist those who are affected by lethal gender-based violence that directly or indirectly affect them. For instance, 2011/2012 South African Police Service statistics revealed that 2 286 women were brutally murdered. This number represents 14.6% of physical violence that were perpetrated against women. The 14.6% representation is a not an accurate reflection of crimes committed against women since many women do not report physical human rights violations that they have experienced (Department of Social Development 2014).

Although the probabilities are low that a human death in a functional state would go unrecorded, there is vast evidence that violence against women and girls are poorly reported, thus an enormous share of these crimes remain untold and not recorded. There is a global concurrence that violence against women is virtually underreported. Research reveals that victims of these violent acts are despondent to report to relevant authorities for a variety of reasons. These *inter alia* include, fear of reprisals, notion that assault is a private and domestic matter, notion that gender-based violence is part of a life of a woman, fear of stigma and lack of confidence in the criminal justice system (United Nations Office on Drugs and Crime 2018). An argument can be made that some of the femicide victims experienced the aforementioned abuses and decided not to report to the relevant authorities. This feeds to the build up to the commission of the ultimate

crime of femicide since perpetrators enjoy impunity for they did not account for the preceding violent acts they committed against their victims.

In 2016, the World Health Organisation (WHO) presented a statistical report demonstrating the deplorable femicide rate of 12.1 per 100 000 persons in South Africa. This worrisome number is about five times higher than the global average which is about 2.6 per 100 000 persons. Furthermore, based on the SAPS crime statistics presented in 2018, fatal violence crimes that claimed lives of women and girls went up by 11% between 2016 and 2018 (The Presidency 2018). Furthermore, 2017/2018 statistics revealed that 2930 women succumbed to fatal violent acts in South Africa. This implies that a woman becomes a victim of violent femicide crime in every three hours. This means that between 7 and 8 women are murdered by men every 24 hours (Polity 2019).

Based on the SAPS 2018/2019 femicide statistics, a total of 2 771 women were victims of femicide. This shows a narrow decline from 2 930 in 2017/2018 statistical revelation on femicide crimes in South Africa (The Citizen 2019). The greater portion of these femicide crimes are perpetuated by intimate partners or former partners of the victims. However, it should also be borne in mind that some of these lethal crimes are non-intimate femicide where the crime is committed by other individuals other than the intimate or former intimate partners of the victims (Psychological Society of South Africa 2019). The table below illustrate fluctuating trends of femicide rates in South Africa over the years.

The above horrifying representation demonstrates a national crisis that has been occurring for far too long without any sign of abating. Narrow fluctuations in various years presented on the table below, demonstrate a consistent devious phenomenon that has not been confronted by the state as the constitution prescribes (protection of human’s right to life). This

may also represent the snail pace approach that many governments including South Africa adopt on matters that revolve around women’s rights. This deplorable numbers also represents the relegation of women to second-class citizens where overt and covert subjugation persist. Furthermore, one would infer that the femicide status quo represents the state’s passiveness and reluctance to expedite preventive and ultimately pre-emptive measures to address the femicide crisis with a long-term purpose to provide surety that women’s lives are equally important and deserve to be protected by the state.

STATUTORY AND POLICY FRAMEWORK CRITIQUE

The Republic of South Africa is one of the countries that possess profound and progressive statutory and policy frameworks, which are essential to steer constitutional matters and the relationship between the state and the citizens. Thus, civil rights of the citizens are in principle protected by the constitution and a variety other constitution’s supporting statutes. Based on the context of this article, prominent laws that are meant to protect women and girls against brutal gender-based violence that lead to femicide are; the Constitution of the Republic of South Africa (1996) and Domestic Violence Act 116 of 1998.

The Constitution of the Republic of South Africa 1996

Every state has some form of a constitution. The concept ‘constitution has become one of the most scholarly contested discourse in academic and jurisprudence realms’. Schmitt (2008) argues that, “a constitution is a fundamental regulation that determines the type and manner in which the public authority should be exercised (that would be only partly an order function, partly a limitation)”. Thus, this legal document (the constitution) should in reality translate its textual prescriptions and values to practical attainment of political, civil and developmental goals in pursuit of

Table 1: Number of Women Murdered and Femicide Rate

Number of women (18+) murdered in South Africa & the femicide rate		
Year	Woman 18+ murdered	Femicide rate
2013/14	2,354	13.1
2014/15	2,234	12.2
2015/16	2,416	13.0
2016/17	2,639	14.0

Source: South African Police Service and Statistics South Africa.

prosperous and stable state (Schmitt 2008). Based on the afore-ascriptions in relation to the constitution it can be inferred that the state and the legal system cannot exist without a constitution (Sinani 2013).

Each state's constitution includes fundamental rules and principles that are essential for those who govern and the governed. At the minimal sense of a constitution, especially in democratic states, the crux of human rights and freedoms is the right to life, which is essentially an absolute civil right for human beings. By the virtue of this central human liberty, human beings ultimately enjoy other rights and freedoms that are linked to other rights such as economic, social and political rights enshrined in the supreme law of the land. Their entrenchment in the constitutional order symbolise the fact that the state has the fundamental obligation to protect arbitrary deprivation of the right to life (Dragne 2013).

The insulation of the right to life obligates governments to desist from any form of intentional causation of death of a person. Moreover, the state is required to institute appropriate and effective mechanisms to ensure that human fundamental right to life is properly insulated (Dragne 2013). As the supreme law of the land when one assesses the constitution against the femicide statistics, one would infer that the constitution's presence is felt through its textual values and prescripts. The ramifications are that the constitution is not fully effective in terms of curbing the human rights crisis of femicide in South Africa. The right to life of women and girls remain imperilled despite the state's obligation to protect it from arbitrary deprivation.

Domestic Violence Act 116 of 1998

Based on the constitutional compulsion, the South African government enacted Domestic Violence Act 22 years ago in pursuit of honouring and insulating fundamental human rights such as the right to equality as well as freedom and security of the person. This is also augmented by the state's commitment to honour its international obligations that South Africa is an active party with an ultimate goal of creating a safer society for women and girls (Domestic Violence Act 1998). This Act emphatically articulates a wide range of dimensions that constitute domestic violence. *Inter alia*, these dimensions include physical abuse, emotional, verbal and psychological abuse, economic abuse, intimidation, abusive behaviour, harassment and stalking (Goldblatt 2018).

Section 4, 5, 6, 7 and 8 revolve around the core element of Act, which are about protection order. These Sections provide for application, consideration, issuing, court's power and issuing of warrant of arrest upon issuing a protection order. Protection orders act as a deterrent mechanism while protecting the complainant from potential heinous violence. Nonetheless, staggering and lamentable statistics released by the South African Police Service (SAPS) for 2017/2018 financial year revealed that 53 263 women were assaulted and 2930 were killed. This demonstrates that this law is not sufficient to adequately support the constitutional values of the right to dignity, security of the person and right to life. This is occurring despite the notion that Domestic Violence Act is one of the most advanced and progressive statute in the world, heinous violent crimes are on the rise without a sign of abating (Parenee 2018).

Despite the severity of violence against women and girls in the context of South Africa, in the presence of protection orders, evidence reveals that victims view the Act as a document that was enacted for cosmetic purposes since it does not deter their abusers from violating their human rights (Ballou 2017). Without considering the finer details of the Act, statistics simply demonstrate the fact that this law is dismally failing those it seeks to protect. Women and children continue to be victims of gender-based violence, which ultimately leads to femicide. This law should be the base to deescalate violence that leads to the killing of women and girls in South Africa. However, its subversion and lawlessness by the perpetrators of femicide is deplorable. Protection orders have been rendered futile since many women have succumbed to the crime of femicide despite the possession of protection orders. It can be argued that this law is not serving the purposes that it was enacted to pursue since statistics show no sign of de-escalation of violence against women and the resulting femicide.

National Development Plan 2030

The NDP is regarded as a blueprint for the developmental aspirations of South Africa. It is argued that this overarching national strategic document maps out current circumstances and how they should be reconciled with the future (Mputing 2018). Based on its national strategic disposition, the NDP Commissioners should have thought of including a Chapter that exclusively deals with the issues of gender-based violence and femicide since these intertwined social ills have been a long-standing problem in South Africa.

Currently, Chapter 12 (Building Safer Communities) is a general narrative with minuscule traces that can be construed to suit the context of the plight of women and girls as an outcome of gender-based violence and femicide. For instance, according to a Report published by Statistics South Africa (2018:7), "Chapter 12 of the National Development Plan (NDP) stipulates that gender-based violence in South Africa is unacceptably high". The derivation of the claim made on the report is on the basis of an interpretation since the Chapter does not explicitly and extensively address the issue of gender-based violence and femicide.

One of the recommendations put forward by the Planning Commission in the NDP (2011) revolved around community safety strategies that should address the safety and security of persons for women, children and the vulnerable groups. The police should be able to advance safety plans that deal with safety risk and account for the augmentation of safety and reduction of fear that has been implanted in the minds of many women throughout the violent past of South Africa (NDP 2012). However, considering the degree, sensitivity and criticality of femicide in South Africa, more should have been done as an indication of political commitment to address this brutal crime that women and girls falls victims to each three hours that pass in a day. Given the sensitivity and destructive nature of femicide in a fledgling democracy like South Africa, it is imperative that the NDP as a national strategic plan guiding multi-faceted developmental and security issues, the NDP Commissioners should have included a dedicated chapter addressing repression that women still endure in South Africa to this day. This would set the tone and willingness to confront gender-based discriminatory ills and violence meted against women on a daily basis. Lack of a dedicated chapter on challenges that women bear is also an indication of policy gap in the national strategic policy for South Africa (NDP).

FACTORS CONNECTED TO FEMICIDE

One of the most pertinent dimension of comprehending social challenges (in this case 'femicide') and a precursor to mitigating and eradicating it, is to first understand or grasp its root causes. Femicide is linked to historical and longstanding socio-economic vice of inequality in terms of power relations between women and men. This socially constructed power imbalance can be dissected into a wide range of dimensions that femicide may emanate from. *Inter alia*, the driving factors attributed to femicide include colonial

and apartheid legacies, entrenched patriarchal social order, commodification and objectification of women.

Colonial and Apartheid Legacies of Violence

Based on its violent nature, the name South Africa is synonymous to the concept 'violence'. Violent criminal acts and traumatic experiences are presently normative within many of South Africa's communities. Consequently, many human rights activists, civil society formations and public policy commentators connote South Africa as an extreme symbol of brutal violence. This culture has descended to a point where many endorse and accept violence as a conventional mechanism to resolve challenges that are continuously engulfing the trouble nation (Hamber and Lewis 1997).

The colonial and apartheid eras, systematically and psychologically entrenched the violent philosophy where violence was significantly instrumental as a mechanism to impose the will of the oppressor to maintain illegal domination of non-whites in South Africa. Consequently, the oppressed reacted with retributive violent acts that were used by the oppressor to subjugate their human rights (economic, political and social rights). As such, these legacies have shaped the manner in which South African communities interact and react to confrontational circumstance (Motimele and Ramugondo 2014).

Lethal violence against women in South Africa has regrettably surpassed the global rates. In an endeavour to understand deadly gender-based violence and gender-based violence in general, many scholars, women's rights pundits and human rights advocacy groups who have immensely contributed to this topical issue have some form of thought concurrence. They believe that the inherited culture of violence that emanated from the brutal apartheid regime is also culpable in these high rates of perilous violence against women and girls in South Africa (Sibanda-Moyo, Khonje and Brobbey 2017). An analytical perspective on the above revelations about apartheid and its impact today would revolve around construing that the violent past of South Africa will continuously haunt the Republic for numerous years to come. This is due to the fact that during the transition process no adequate efforts were made by the state to provide effective rehabilitative mechanisms in order to quell the protraction of violence in South Africa. Although women were not the primary target at the time (the apartheid state was the target), the repercussions are that post 1994, the disposition of apartheid violence was the hub

that still feeds other violence including lethal gender-based violence against women and girls today.

Entrenched Patriarchal Social Order

Based on the views of those who subscribe to the feminist theory, patriarchy is regarded as the ultimate root cause of all the abusive and violent acts against women and girls. Although patriarchy plays a significant role in contributing to violence against women, it cannot be the overarching cause of all violent acts perpetuated against women. However, it remains among the severe factors because of the disproportionate power share between females and males (Tracy 2007).

Facio (2013:2), postulates that...

“Patriarchy is a form of mental, social, spiritual, economic and political organisation/structuring of society produced by the gradual institutionalisation of sex-based political relations created, maintained and reinforced by different institutions linked closely together to achieve consensus on the lesser value of women and their role. These institutions interconnect not only with each other to strengthen the structures of domination of men over women, but also with other systems of exclusion, oppression and/or domination based on real or perceived differences between humans, creating states that respond only to the needs and interests of a few powerful men”.

The subjugation and oppression of women are witnessed in male dominated societies across the world. Patriarchal culture is believed to be one of the inherent contributors of violence against women and girls. This is due to the fact that the personhood of women and their fundamental human rights are trampled on since the man-made patriarchal system relegates women to the subservient role to serve narrow interests of men. Patriarchy is at the centre stage of oppression that women encounter on a daily basis. Oppression of women and girls is one of the ultimate elements of patriarchy. Its architecture revolves around the needs of men, thus; it is male identified, male-regulated, male-centric and hinges its value on toxic masculinity over feminine personae (Ademiluka 2018).

Based on the afore-arguments on patriarchy, which is perpetuated to be a problematic socio-cultural and political tool, it can be inferred that brutal violence effected against women are an end product of structural and systematic oppression of women. Thus, for centuries patriarchs have continuously endeavoured to maintain and sophisticate their unjustified authority over women and the society as a whole (Saccomano 2015). This implies that patriarchal structures have been infused into social, political and economic hierarchy in South Africa. These structures perpetuate a superiority syndrome where those that benefit from its proceeds tend to believe and maintain the position that renders women to an inferior servitude role based on man-made allotment of roles between genders. This man-made psycho-social societal structure has shaped many communities along diverse cultural, racial, ethnic and religious dimensions in South Africa. The subservient roles apportioned to women create social pathologies that lead to lethal violence meted against them as a result of patriarchal structural arrangements.

Commodification and Objectification of Women

Social learning scholars have come to an inference that human beings learn from different behaviours through observing and internalising behaviours displayed by others. This leads to a process where they formulate ideas about the behavioural conducts that are conventional in societies they belong to. Ultimately, they put such behaviours to test and jump into the bandwagon of the social norms that their communities deem appropriate. Aggression and gender-based violence that often lead to brutal femicide are also perceived as social behaviours that are shaped and reinforced by the process of social learning. This implies that violence perpetrated against women by men endures in human society because it is modelled in various institutions such as family and society at large (Crowell and Burgess 1996).

Commodification and objectification are among the gross travesties that have played an active role in the degradation of women's status as human beings who are entitled to equality and dignity rights. For many centuries, women have been living in a culture permeated by sexual objectification in which they are treated like traded and disposable commodities rather than human beings. This is manifested by sexual objectification, which is mainly attributed to women in comparison with their male counterparts. Based on the Kantian discourse, women's sexual organs are conveniently separated from their natural persons,

which consequently leads to the reduction of their human status to mere sexual instruments. These socially constructed dimensions also contribute to the continuum of every day's experience of women who become victims of brutal sexual and physical violence (Davidson and Gervais 2015).

Based on the objectification theory, women's bodies are scrutinised and assessed to a greater extent in comparison to men's bodies. This usually leads to a situation where women are viewed as sexual objects that men have free access to, with little or no regard or sensitivity to their fundamental human rights. This is exacerbated by the negative role principally played by the media based on the discriminatory societal standards that are socially constructed by a particular society. The media's representation of women may subconsciously influence the society to believe that women are of less value because of this degrading objectification. It can be inferred that portrayals and representation associated with women especially those reinforced by the media have led to the commodification of women (Meganck 2010). As such, the perception of men on women as less worthy of human rights contributes to lethal violence meted against women by men on a daily basis. The obsessive societal focus on women's physiological features rather than their personality diminishes the qualities that make them human beings. This obsessive focus dehumanises women and equate them to objects or automata without intellectual capacity, emotions, personality and human rights (Awashti 2017). Based on the scholarly contributions of scholars above, it can be inferred that part of the challenge is the mental engineering process that has been hard-wired in the thought processes of human beings for centuries. Subliminally, continuous imaging of women as commodities result in a situation where their person, character and human rights do not prominently feature in social discourse that shapes communities and structural arrangements in a given context. The obsessive commodification and objectification of women remains one of sociological pathologies that actively contribute to senseless subversion of women's rights, which become a source of their ultimate arbitrary killings.

Gender Inequality

Almost all the countries and their respective communities across the world are characterised by unacceptable rates of gender inequality. This is mainly rooted on factors such as discriminatory gender-based

division and the continuous process of gender socialisation, which is purely meant to keep women in inferior roles that do not allow them to challenge the abhorrent inequality crisis and its effects on women. These processes were socially constructed to ensure that women adapt to specific stereotypic roles in society. These gender stereotypic roles are repressive, biased and violent since men use them in an attempt to keep women less empowered and thus widening the ever-widening inequality gap (Saccomano 2015).

The inadequacies in the empowerment dimension of women, breeds and compounds the already compromised status of women across the world. The United Nations concurs that while there are barriers to women empowerment; violence against women and girls is both a cause and consequences of gender inequality. In some parts of the world, fatal violence against women is exacerbated by discriminatory laws and primitive exclusionary laws that do not add any material value to the contemporary human existence landscape. Countries that still enforce these perilous practices perpetuate this conduct through subverting women and girls right to education, income, dignity, autonomy and reproductive liberties (Jahan 2018).

Gender is an integral dimension of structural violence, for gender is one of the fundamental social constructs that are substrata of structural inequality experienced across the world. Although some women enjoy complete human rights due to them, many are yet to be emancipated in order to exercise their basic human rights. The nexus between inequality and violence with specific reference to disparities to opportunities (between men and women) and violence prompted UNESCO 1995 to conclude that inequalities between males and females is an obstruction to harmony and long-lasting peace (Caprioli 2005). The wave of persisting gender inequality is an indication of lack of innovative policy interventions aimed at restructuring the social, economic and political norms that were designed to position women in an insufficient locus. It is evident when one looks at the slow progress that has been made in terms of women's participation in substantial mainstream economic, political and social platforms. These platforms are key environment where legislative and policy decisions are made to influence the developmental trajectory in any given country. The continuous closure or limited window of opportunities for women to actively participate in the mainstream and decision-making process is a barrier that continues to stifle efforts that are imperative to challenge the configurations of lethal violence against women and

girls in South Africa. Until the government commits on substantial gender equality programmes to reduce inequalities, the vicious cycle of intergenerational gender-based violence is likely to inexorably persist.

CONCLUSIONS

Intensive literature review that the author undertook to inform the content of this article provided interesting and novel insights around the phenomenon of femicide in South Africa. Femicide is a gender-based violence phenomenon with a latticework of correlated dynamics that perpetuate this dangerous and murderous crime against women and girls in South Africa.

Statistical presentation and analysis that were undertaken in this article demonstrate a dire national conundrum in terms of women's human rights violations and arbitrary killings that take place every 3 hours in a day. It is verily calamitous that since the dawn of democratic South Africa, women still endure horrendous treatment and violence, where the state has not done enough despite staggering statistics that have remained obstinately high. The inaction of the state on this topical and pertinent issue signifies the lack of commitment from agencies entrusted with the authority to confront this social vice.

Based on the critique of the current statutory framework guiding the state in pursuit of protecting and honouring dignity and right to life, it is unambiguous that there are shortcomings that need supplementary statutory intervention and revisions. One of the route that could be adopted to add into the existing laws is a legislative process that will lead to a law that separates gender-neutral murder to gender specific murder (in this case femicide law). This avenue is an opportune route that the South African parliament legislators could adopt as a move to show the seriousness of government's appreciation of the ramification and impact of femicide. For instance, numerous Latin American countries have opted to enact femicide laws in order to specifically address the challenge of women and girls killings in their respective countries (Pinelo 2015). The fundamental purposes of femicide statute would revolve around honouring the dignity and equality right, and ultimately the insulation of right to life for women and girls. However, cautionary measures need to be taken to ensure that the femicide statute is enacted with 5-C protocol where context, content, commitment, capacity and client/coalitions will be appreciated by the implementing or enforcing agencies. Due diligence and compliance with the 5-C protocol are

often at the centre of the downsides that have been the recurring themes about those who are charged with an obligation of implementing the enacted laws.

Although statutory framework plays a central role of guiding gender-based violence that leads to femicide, it should be borne in mind that gender related killings are more complex than enacting laws and policies. As such, there must be a systematic shift of power relations and dynamics between women and men within the micro and macro environments ranging from economic, social and political equity. This implies that government must institute programmes and policies that are capable of forging changes in relation to socially constructed constructs that are central in the perpetuation of discriminatory customs and systems against women and girls. Additionally, a systematic focus needs to be placed on addressing dimensions such as patriarchal arrangements of society, rehabilitative programmes that are meant to address the violence past that South Africa has experienced since colonial and apartheid eras of violence. Furthermore, there must also be a shift in a manner in which women are portrayed. Commodification and objectification of women is also seen as an obstacle towards achieving equitable and honourable representation of gender. Commodification of women has played a negative and dehumanising role for women are perceived as possessions of men without complete human rights, which in essence is contrary to the Constitution of the Republic of South Africa.

If the government is to achieve the insulation of civil liberties of women and girls as the constitution prescribes, more focus needs to be placed on additional supportive interventions such as school-curriculum pre-emptive programmes and community-based advocacy programmes. This implies that rather than the reactive approach, which is the popular route that the South African government employ when confronted with challenges, pre-emptive approach must be adopted. Pre-emptive approach will be suited to support constitutional means to protect women's rights. However, it should be borne in mind that it requires ongoing and intensive research into the underlying issues such as causes, effects, impact and sustainable solutions to the identified social challenge. If this is attained, the state would have an opportunity to enact laws and policies to respond to gender-based murders from evidence-based policy approach rather than the convenient reactive approach, which has proven to be inadequate especially on human rights issues affecting women.

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