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**ADVANCING THE GIRL CHILD MOVEMENT: A POTENTIAL MECHANISM TO  
CURTAIL SEXUAL GENDER-BASED VIOLENCE AGAINST WOMEN  
IN SOUTH AFRICA**

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I hereby declare that I have read and understood the regulations governing the submission of Masters of Laws (LLM) dissertations contained in the rules of this University, and that this dissertation/ research paper conforms to those regulations.

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**ADVANCING THE GIRL CHILD MOVEMENT:  
A POTENTIAL MECHANISM TO CURTAIL SEXUAL GENDER-BASED  
VIOLENCE AGAINST WOMEN IN SOUTH AFRICA**

**By Jessica Ashley Burn**

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***'Just like moons and like suns with the certainty of tides, just like hopes springing high, still I'll rise.'***

**- Maya Angelou**

## TABLE OF CONTENTS

LIST OF ABBREVIATIONS.....	6
CHAPTER I: INTRODUCTION.....	7
CHAPTER II: ENDEMIC VIOLENCE AGAINST WOMEN IN SOUTH AFRICA.....	9
(a) Violence against Women.....	9
(b) Magnitude of Sexual Violence in South Africa and the Challenge of Under-reporting.....	11
(c) Root causes for Sexual Gender-based Violence against Women: gender inequality, patriarchy and toxic masculinity.....	15
CHAPTER III: INTERNATIONAL AND REGIONAL OBLIGATIONS TO PREVENT VIOLENCE AGAINST WOMEN AND GIRLS.....	20
(a) Doctrine of State Responsibility versus State Sovereignty.....	21
(b) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).....	22
(c) General Recommendations by the CEDAW Committee.....	25
(d) Declaration on the Elimination of Violence Against Women (DEVAW).....	30
(e) Beijing Declaration and Platform for Action.....	31
(f) The African (Banjul) Charter on Human and Peoples' Rights (the African Charter) and the Maputo Protocol.....	34
CHAPTER IV: HUMAN RIGHTS EDUCATION.....	38
(a) International Commitment to HRE.....	38
(b) Resistance against Bantu Education.....	42
(c) Aspirations for a New South Africa.....	44
(d) HRE as a Constitutional Right.....	47
(e) Genuine Transformation through HRE.....	50
CHAPTER V: CHILDREN'S RESOURCE CENTRE AND THE GIRL CHILD MOVEMENT.....	53
(a) Empirical Research.....	54

(b)	History of CRC and the GCM.....	55
(c)	How the GCM works and Current Projects of the GCM.....	57
(d)	Challenges faced in the implementation of the GCM.....	61
(e)	Addressing challenges faced in the implementation of the GCM and Advancing the GCM's initiatives.....	62
	CHAPTER VI: CONCLUSION.....	63
	ANNEXURE 1: CRC Archives.....	66
	ANNEXURE 2.1: Schedule for the GCM Workshop 2016.....	67
	ANNEXURE 2.2: Schedule for the GCM National Conference 2017.....	68
	ANNEXURE 3: Interview Questions.....	69
	ANNEXURE 4: Suggestions for Implementation of HRE through the GCM.....	71
	BIBLIOGRAPHY.....	76

## LIST OF ABBREVIATIONS

ACHPR:	African Commission on Human and Peoples' Rights
African Charter:	African (Banjul) Charter on Human and Peoples' Rights
AU:	African Union
BEM:	Boys' Education Movement
CEDAW Committee:	Committee on the Elimination of Discrimination against Women
CEDAW:	Convention on the Elimination of All Forms of Discrimination Against Women
Child Committee:	Committee on the Rights of the Child
Child Convention:	Convention on the Rights of the Child
Constitution:	Constitution of the Republic of South Africa, 1996
CRC:	Children's Resource Centre, Cape Town
DEVAW:	Declaration on the Elimination of Violence against Women
Domestic Violence Act:	Domestic Violence Act 116 of 1998
FGM:	Female genital mutilation
GCM:	Girl Child Movement
GEM:	Girls' Education Movement
HRE:	Human Rights Education
Maputo Protocol:	Protocol to the ACHPR on the Rights of Women in Africa
PE:	People's Education
SAPS:	South African Police Service
Sexual Violence Guidelines:	ACHPR Guidelines on Combatting Sexual Violence and its Consequences in Africa, 2017
SORMA:	Criminal Law (Sexual Offences and Related Matters) Act 32 of 2007
UDHR:	Universal Declaration of Human Rights
UNICEF:	United Nations Children's Fund

## I INTRODUCTION

Violence against women is not a social ill which has recently emerged, nor is it an unexplored topic in the realm of feminist academics, activists and lawyers. Yet despite streams of published articles unpacking the issue and numerous campaigns aimed at raising awareness about and combatting the prevalence of violence against women, most significantly, the annual '16 Days of Activism',<sup>1</sup> it continues to be deeply entrenched in all factions of society. Furthermore, the idealistic society envisioned by the Constitution of the Republic of South Africa, 1996 (the Constitution) has not translated into reality. The rights enshrined in the supreme law have not dissipated incidents of violence against women. With the aforesaid in mind, this paper intends to contribute to the array of solutions already developed, in order to assist in countering the most extreme manifestation of patriarchy, sexual gender-based violence against women.<sup>2</sup>

As the time-honoured saying goes, 'prevention is better than cure' and in the same vein, a total reliance on the legislation and the legal processes in place to deal with the aftermath of rape, sexual assault and harassment, arguably have not and will not adequately address the root causes of these crimes. Hence, this paper contemplates a mechanism to strike at the core from which sexual gender-based violence stems, that core being the psychological entrenchment of male superiority and female inferiority - in other words, gender inequality. Overlooked prejudices against girls and women need to be brought into consciousness, to address them and break them down. If gender equality is sought, then we should be encouraging children to evaluate the status quo from a younger age and prioritise their role in re-imagining a society which values and promotes equality and dignity. Accordingly, it is submitted that a potential solution may lie in children's human rights education (HRE), specifically aimed at promoting gender equality and deconstructing patriarchal beliefs and ideas about masculinity.

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<sup>1</sup> UN Women '16 Days of Activism', available at <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/take-action/16-days-of-activism>, accessed on 27 January 2019.

<sup>2</sup> The term 'sexual gender-based violence against women' narrows the scope of this paper to sexual acts (rape, sexual assault and sexual harassment) directed towards women because they are women or that affect women disproportionately (including people who identify as women). 'Gender-based' indicates that this is a social problem, linked to the power dynamics between genders.

HRE is not a novel concept and is promoted in international treaties such as the Universal Declaration of Human Rights (UDHR)<sup>3</sup> and the Convention on the Rights of the Child (the Child Convention),<sup>4</sup> and has, in fact, already been implemented in schools in South Africa in order for the post-apartheid generation of children to strive towards racial integration and societal transformation. Unfortunately, it appears that the goal of gender equality has fallen somewhat to the wayside in the formulation of these HRE programmes. It is submitted that the UDHR and the Child Convention read together with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>5</sup> and the Declaration on the Elimination of Violence against Women (DEVAW),<sup>6</sup> as well as the African (Banjul) Charter on Human and Peoples' Rights (the African Charter)<sup>7</sup> and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol),<sup>8</sup> support the advancement of gender equality through HRE programmes.

In order to explore the possibility of developing HRE programmes in schools throughout South Africa with an underlying goal of advancing gender equality, empirical research was conducted in collaboration with the non-governmental organisation (NGO), Children's Resource Centre (CRC), based in Cape Town, which has developed a programme called the Girl Child Movement (GCM). The GCM aims to use the creative energies of girls to help build and sustain a qualitatively better world for girls and women. The goal of *advancing* the GCM is acutely targeted towards preventing the pain, suffering, humiliation and dehumanisation of girls and women who are subjected to incidents of sexual gender-based violence, the war on female bodies.

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<sup>3</sup> *Universal Declaration of Human Rights* GA Res 217A (III) UN GAOR 3<sup>rd</sup> sess 183<sup>rd</sup> plen mtg UN Doc A/810 (10 December 1948) (UDHR), article 26(2).

<sup>4</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, UNTS 1577 at 3 (entered into force 2 September 1990) (the Child Convention).

<sup>5</sup> *Convention on the Elimination of All Forms of Discrimination Against Women*, opened for signature 18 December 1979, UNTS 1249 at 13 (entered into force 3 September 1981) (CEDAW).

<sup>6</sup> *Declaration on the Elimination of Violence against Women A/RES/48/104* 48<sup>th</sup> sess 85<sup>th</sup> plen mtg (23 December 1993) (DEVAW).

<sup>7</sup> *African (Banjul) Charter on Human and Peoples' Rights* adopted 27 June 1981, Organisation of African Unity AU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) (entered into force 21 October 1986) (the African Charter).

<sup>8</sup> *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* adopted in Maputo in July 2003 (entered into force 25 November 2005) (the Maputo Protocol).

## II ENDEMIC VIOLENCE AGAINST WOMEN IN SOUTH AFRICA

Vogelman and Eagle describe violence against women as ‘endemic’ as it is ‘widespread, common, and deeply entrenched in most societies.’<sup>9</sup> Although this is not a problem which is confined to South African borders, sexual gender-based violence against women in South Africa is at a chronic level. In the South African context, such violence has to a large extent been met with apathy rather than proactively challenged. This chapter will first expound on the sexual gender-based violence against women which HRE and the GCM aim to deter over time. Secondly, the magnitude of sexual violence against women in South Africa will be explored, along with the challenges of under-reporting and inaccuracy of statistics. Lastly, the inextricable link between gender inequality, patriarchy and toxic masculinity and incidents of sexual gender-based violence against women will be considered.

### (a) Violence against Women

‘Violence’ is by no means restricted to physical forms, nor are physical forms of violence necessarily more serious than psychological and economic forms of violence. In fact, physical, psychological and economic forms of violence are often entwined phenomena. The legislature has acknowledged the overlap in manifestations of violence in legislation, as demonstrated by the broad definition of ‘domestic violence’ in the Domestic Violence Act 116 of 1998 (the Domestic Violence Act).<sup>10</sup> Although it is recognised that one cannot isolate the various forms of violence, physical violence against women is the most detectable and

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<sup>9</sup> Lloyd Vogelmann and Gillian Eagle ‘Overcoming Endemic Violence Against Women in South Africa’ (1991) 18 *Social Justice* at 209.

<sup>10</sup> “domestic violence” means –

- (a) physical abuse;
- (b) sexual abuse;
- (c) emotional, verbal and physiological abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment;
- (g) stalking;
- (h) damage to property;
- (i) entry into the complainant’s residence without consent, where the parties do not share the same residence; or
- (j) any other controlling or abusive behaviour towards the complainant, where such conduct harms, or may cause imminent harm to the safety, health or well-being of the complainant’.

the consequences of physical violence could be fatal. Criminal Law (Sexual Offences and Related Matters) Act 32 of 2007 (SORMA), comprehensively lists numerous offences, such as rape,<sup>11</sup> compelled rape,<sup>12</sup> sexual assault,<sup>13</sup> incest,<sup>14</sup> bestiality,<sup>15</sup> statutory rape<sup>16</sup> and sexual grooming of children,<sup>17</sup> among others. This paper will hone in on sexual offences and rape<sup>18</sup> in particular.

Rape is a markedly unusual crime because the conduct on which the crime turns, namely bodily penetration, is not unlawful when consent is present between the parties. This perhaps explains why defining the scope of the crime has not been a straightforward exercise. Burchell explains that, '[t]he intimate and personal nature of this act makes this a particularly reprehensible form of assault, involving not only the application of force to the body of the victim but, by ignoring the unwillingness to engage in sexual penetration, also a serious violation of privacy and autonomy.'<sup>19</sup>

South Africa's current legal definition of rape is very broad. It includes the oral, anal or vaginal penetration of a person (female or male) with a genital organ, anal or vaginal penetration with any object and the penetration of a person's mouth with the genital organs of an animal. In contrast, the narrow common-law definition of rape defined the crime as being committed through the insertion of the penis into the vagina.<sup>20</sup> The definition was extended in *Masiya v Director of Public Prosecutions Pretoria (The State) and Another* 2007 (5) SA 30 (CC) to include anal penetration of females.<sup>21</sup> The decision in *Masiya* was heavily criticised. Snyman argues that the Court did not adhere to the principle of legality and separation of powers doctrine as it would be the responsibility of the

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<sup>11</sup> Section 3 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (SORMA).

<sup>12</sup> Section 4 of SORMA.

<sup>13</sup> Section 5 of SORMA.

<sup>14</sup> Section 12 of SORMA.

<sup>15</sup> Section 13 of SORMA.

<sup>16</sup> Section 15 of SORMA.

<sup>17</sup> Section 18 of SORMA.

<sup>18</sup> Rape is the unlawful, intentional, non-consensual sexual penetration of another.

<sup>19</sup> Jonathan Burchell *Principles of Criminal Law* 5 ed (2016) at 610.

<sup>20</sup> *Ibid* at 610.

<sup>21</sup> *Masiya v Director of Public Prosecutions Pretoria (The State) and Another* 2007 (5) SA 30 (CC) para 74.

legislature to amend the definition of 'rape'.<sup>22</sup> Whereas Phelps argues that the Court was entitled to amend the definition of 'rape', but did not extend the common law definition far enough to include anal penetration of males, as well as females, and that this would have fallen within the ambit of the Court's powers in terms of section 39(2) of the Constitution.<sup>23</sup>

SORMA came into effect in December 2007, a few months after the *Masiya* judgment was handed down, and presents a gender-neutral definition of rape, which provides protection to a wider group of victims. However, the crime of rape, in reality, remains highly gendered, with females constituting the majority of victims. This begs the question as to what the underlying reasons are which motivate perpetrators of rape. Burchell asserts that, 'the rapist does not rape because he is sexually frustrated or deprived, any more than the alcoholic drinks because he is thirsty.'<sup>24</sup> In other words, rape is connected to deep-seated psychological and social issues. Psychiatric studies of rapists reveal that the principal motivation for rape is an expression of aggression that is manifested in a sexual attack upon a woman.<sup>25</sup> 'Aggression' is generally categorised as a masculine trait. However, masculinity and femininity are arguably social constructs and, hence, changes in upbringing and education of children could potentially alter accepted understandings and expressions of masculinity and femininity. This will be discussed in some detail below.

## **(b) Magnitude of Sexual Violence in South Africa and the Challenge of Under-reporting**

The South African Police Service (SAPS) released the country's crime statistics for 1 April 2017 to 31 March 2018 on 11 September 2018.<sup>26</sup> In 2017/18, a total of 50 108 sexual offences were recorded by the police, up from 49 660 in

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<sup>22</sup> C R Snyman 'Extending the scope of rape — A dangerous precedent' (2007) 124 *SALJ* 677 at 677.

<sup>23</sup> Dr K Phelps 'A Dangerous Precedent Indeed — A Response to C R Snyman's Note on *Masiya*' (2008) 125 *SALJ* 646 at 653.

<sup>24</sup> Burchell *op cit* note 19 at 611.

<sup>25</sup> *Ibid.*

<sup>26</sup> Africa Check 'FACTSHEET: South Africa's crime statistics for 2017/18' published on 11 September 2018, available at <https://africacheck.org/factsheets/factsheet-south-africas-crime-statistics-for-2017-18/>, accessed on 10 January 2019.

2016/17. The majority of the sexual offences recorded were rapes. The police recorded 40 035 rapes in 2017/18, up from 39 828 rapes in 2016/17. An average of 110 rapes were recorded by the police each day.<sup>27</sup> Although these statistics induce shock and disgust, the Institute for Security Studies warns that the rape statistics recorded by the police cannot be taken as an accurate measure of either the extent or trend of this crime.<sup>28</sup> Furthermore, there is no recent, nationally representative under-reporting rate for South Africa that can be used to estimate the actual number of rapes committed each year.<sup>29</sup> In addition to the disconnect between the reported and actual number of incidents, the blatant shortcoming of the SAPS' statistics is that the gender of the victims of sexual offences is not recorded, which presents a challenge in discerning how to utilise resources effectively to make significant inroads in addressing both the aftermath and root causes of crimes.

Accordingly, one of the biggest hindrances to eliminating sexual gender-based violence against women is that it is difficult to ascertain the full weight and nuances of the problem. Statistics are not entirely reliable as they do not reflect the actual number of sexual offences, due to under-reporting. Under-reporting can be attributed to a number of factors. For example, at the reporting stage of rape or other sexual offences, there is a legacy of women being second-guessed or even accused of lying, which may be residual of the now abolished 'cautionary rule' in respect of a complainant in proceedings involving a sexual offence.<sup>30</sup> Alternatively, it may be assumed that women have contributed to their own 'misfortune' with their behaviour or dress-code, which is grounded in the false assumption that rape is motivated exclusively by sexual lust.<sup>31</sup> With mistrust lingering in police stations across South Africa, despite recent training efforts to

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> The common law 'cautionary rule' requires judicial officers to exercise caution before adopting the evidence of certain witnesses (children, complainants in sexual offence cases and accomplices) on the basis that the evidence of such witnesses is inherently potentially unreliable. The Court in *S v Jackson* 1998 (4) BCLR 424 (SCA) found that the application of the cautionary rule in respect of a complainant in proceedings involving a sexual offence to be based on irrational and outdated perceptions. Section 60 of SORMA provides that 'a court may not treat the evidence of a complainant in criminal proceedings involving the alleged commission of a sexual offence pending before that court, with caution, on account of the nature of the offence'.

<sup>31</sup> Burchell op cit note 19 at 610.

eradicate insensitivity,<sup>32</sup> many women will be apprehensive to place themselves in the vulnerable position of revealing traumatic details of their violation to an unknown police officer.

Misnomers about sexual violence can have a devastating influence on the reporting, investigation and trial of cases.<sup>33</sup> Possibly two of the most destructive misnomers are that 'women should physically resist sexual assault' and 'perpetrators of rape are strangers'.<sup>34</sup> The first example shifts blame to the victim and disregards the victim's fear or physical ability to stop an attack. This misnomer unfortunately exists because, in the past, women were expected to cry out to indicate a lack of consent to sexual penetration.<sup>35</sup> If a woman was subjected to sexual intercourse through fear or duress, or sexual intercourse was obtained by fraud or where the woman was unconscious or lacked mental capacity, then the sexual intercourse was not considered to be rape – although punishable as a form of *stuprum*.<sup>36</sup> However, SORMA now stipulates that consent to a sexual act is not attained in cases where there has been intimidation, a threat of harm, an abuse of power or authority or where the victim is asleep or unconscious.<sup>37</sup> There is a discrepancy between what the law says and how it operates in society and we ought to promote a culture in which clear, genuine consent is sought before engaging in sexual activities. This could be done through HRE.

The second example, 'perpetrators of rape are strangers', overlooks widespread domestic violence where the victim and perpetrator may be in a relationship or related, and victims are therefore often reluctant to disclose sexual violations.<sup>38</sup>

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<sup>32</sup> Minister Fikile Mbalula 'Speech at the Gender Based Violence and Protection of Vulnerable Groups', published on 17 August 2017, available at <https://www.saps.gov.za/newsroom/msspeechdetail.php?nid=12281>, accessed on 16 January 2018.

<sup>33</sup> Simone Cusack and Alexander S.H. Timmer 'Gender Stereotyping in Rape Cases' (2011) 11 *Human Rights Law Review* at 331.

<sup>34</sup> *Ibid* at 336.

<sup>35</sup> Burchell *op cit* note 19 at 613.

<sup>36</sup> *Stuprum* is an offence involving illicit sexual intercourse contrary to morality between a man and an unmarried woman. See *Masiya v Director of Public Prosecutions Pretoria (The State) and Another* 2007 (5) SA 30 (CC) para 21.

<sup>37</sup> Section 1(3) of SORMA

<sup>38</sup> Africa Check 'FACTSHEET: South Africa's 2014/15 assault and sexual crime statistics' published on 29 September 2016, available at <https://africacheck.org/factsheets/factsheet-south-africas-201415-assault-and-sexual-crime-statistics/>, accessed on 10 January 2019.

If such misnomers about sexual violence infiltrate the minds of police officers, the result will be that the institutions which are supposed to offer protection to victims may end up inflicting secondary-victimisation in what ought to be deemed highly sensitive and serious charges.

Another contributing factor to under-reporting is referred to as the 'public-private dichotomy'. This concept emerged from a critique of John Locke who sought to challenge the monarchy and divine rights of kings for political emancipation of citizens, but at the same time chose to preserve patriarchal familial structures.<sup>39</sup> Essentially, despite liberal and democratic advancements in state governance, hierarchy may be preserved within the family. Accordingly, violations of the rights to human dignity<sup>40</sup> and freedom and security of the person<sup>41</sup> may occur more frequently within the private or non-governmental realm where there is minimal regulation and intervention. 'Private realm' violations occur in the family, for example, spousal rape, which until the early 1990s was not considered a crime in South Africa.<sup>42</sup> Some police officials and even victims of crime in the private sphere believe that regulation of and intervention in the private sphere would go beyond the scope of governmental power, despite having the Domestic Violence Act and SORMA in place to justify such regulation and intervention.

Although statistics are inaccurate due to factors such as misnomers about sexual violence and the public-private dichotomy, they do at least present a general idea of the magnitude of sexual gender-based violence against women and thereby make the crimes visible and counter denialism and disregard. From the 2017/18 statistics, we can see that the rates of sexual offences and rapes have increased since the previous year. As we know these crimes are under-reported, the statistics we have available indicate just the tip of the iceberg. Although we should strive to ascertain accurate statistics by countering the causes of under-reporting, in order to monitor progress or regress in combating crime, this paper

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<sup>39</sup> Cusack and Timmer op cit note 33.

<sup>40</sup> Section 9 of the Constitution.

<sup>41</sup> Section 12 of the Constitution.

<sup>42</sup> Section 5 of the Prevention of Family Violence Act 133 of 1993 (repealed) provides that 'a husband may be convicted of the rape of his wife' and section 56(1) of SORMA provides that a marital or other relationship is not a defence to crimes listed under sections 3, 4 5, 6 and 7 of SORMA.

proposes that HRE will act as a useful aid in reducing rates of widespread sexual gender-based violence against women.

**(c) Root causes for Sexual Gender-based Violence against Women: gender inequality, patriarchy and toxic masculinity**

The statistics on sexual offences exhibit that the crimes of rape and sexual assault are rife in South Africa, however, as mentioned above, the statistics do not differentiate between female and male victims of sexual offences. Yet we know that sexual offences are discernibly gendered, whereby masculinity exudes power over femininity.

Violence against women is intrinsically connected with gender inequality. At this point, it should be stated briefly that the term 'gender' refers to the socially constructed differences between women and men and ideas of femininity and masculinity – what Charlesworth refers to as 'the excess cultural baggage associated with biological sex'.<sup>43</sup> While many milestones in strengthening gender equality have been reached, particularly through legal acknowledgements of women's human rights, there remain beliefs, biases and stereotypes perpetuated by social and institutional structures that hinder genuine transformation. A tiresome resurfacing of an age-old problem is apparent: patriarchy. Patriarchy was initially a concept used to describe a system of governance whereby men held political power as heads of households.<sup>44</sup> Patriarchy can be defined broadly as:

'a system of social structures and practices in which men dominate, oppress and exploit women'.<sup>45</sup>

Former Constitutional Court Justice Sachs claims that patriarchy is 'one of the few profoundly non-racial institutions in South Africa', as it is a phenomenon

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<sup>43</sup> Hilary Charlesworth 'Feminist Methods in International Law' (1999) in the *American Journal of International Law* at 379.

<sup>44</sup> van Marle, K. and Bonthuys, E. 'Feminist Theories and Concepts' in Bonthuys, E. and Albertyn, C. (eds) *Gender, Law and Justice* (2007) Juta at 19.

<sup>45</sup> Roth Silke and Katherine Dashper 'Sociology in the 1980s: The Rise of Gender and Intersectionality' (2016) *Sociology E-Special* 4 at 6.

which exists within all racial groups.<sup>46</sup> However, to avoid essentialism, Sachs acknowledges that there are layers to oppression. It is important to realise that the intersectionality of patriarchy with other social constructs creates specific and nuanced experiences of patriarchy. Race, sexual orientation, religion, culture, disability, socio-economic status and age each provide their own individual lenses. For example, black women living in rural communities are subject to direct or indirect discrimination on three grounds, race, gender and socio-economic status.

However, one of the most controversial debates when it comes to promoting women's empowerment and gender equality is whether these notions are truly universal or whether cultural relativism<sup>47</sup> ought to be taken into consideration.<sup>48</sup> Some may view the universal applicability of human rights as a western concept which may, therefore, not be suitable for the dynamics of non-western societies. Sachs, however, describes male dominance in the family and society as receiving a 'cultural halo' in the South African context.<sup>49</sup> In other words, culture and religion can be used as mechanisms for perpetuating and defending patriarchal preferences. Attitudes of male superiority and dominance supported by long-standing traditions and interpretations of holy texts may be used to justify violence against women.

For example, religion has been used to justify that a wife must be obedient and submit to the authority of her husband. Howland argues that 'the obedience rule legitimates the husband's discipline of his wife and thus makes women vulnerable to physical abuse'.<sup>50</sup> As a second example, female genital mutilation (FGM)<sup>51</sup> has been justified from a cultural perspective in as a way to ensure pre-

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<sup>46</sup> Sachs, A. 'Judges and Gender: The Constitutional Rights of Women in a Post-Apartheid South Africa' (1990) in *Agenda* at 1.

<sup>47</sup> 'Cultural relativism' is the idea that a person's beliefs, values, and practices should be understood based on that person's own culture, rather than judged against the criteria of another, such as 'western formulations' of human rights.

<sup>48</sup> *Ibid.*

<sup>49</sup> Sachs *op cit* note 46.

<sup>50</sup> Courtney W. Howland 'Women and Religious Fundamentalism' (1999) in Kelly D. Askin and Dorean M. Koenig (eds.) *Women and International Human Rights Law Vol. 1* at 533.

<sup>51</sup> Female genital mutilation (FGM) comprises all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons.

marital virginity and marital fidelity, grounded in ideals of decorum and modesty. FGM is generally regarded as a violation of women and girls' rights to health, security and physical integrity, the right to be free from torture and cruel, inhuman or degrading treatment, and the right to life. However, the World Health Organization reports that 'more than 200 million girls and women alive today have been cut in 30 countries in Africa, the Middle East and Asia where FGM is concentrated'.<sup>52</sup>

Winter contemplates a reason why the members of religious and cultural groups may be reluctant to self-critique. She asserts that '[r]eligious and cultural rights, generally expressed as collective or "group rights", are perceived by some as being frequently asserted at women's expense'.<sup>53</sup> In other words, in the pursuit of defending and protecting historically marginalised and persecuted cultural and religious groups, critiques of how these groups treat women and girls within them, creates internal division and weakens an arguably 'more important goal'. Thus, there is seemingly a tension between religious and cultural rights on the one hand, and equality rights on the other.

However, it is submitted that in a multi-cultural world, in the interest of social cohesion and harmony, it would be practical for all groups to subscribe to a common set of 'ground rules', which result in the least amount of conflict and harm. This could be justified from the perspective that it is regarded by almost all people that the implementation of repugnant, discriminatory practices during the holocaust and apartheid was completely unacceptable, and that treating people of different creeds or colours as inferior is fundamentally wrong. It is, therefore, questionable why gender discrimination is continuously condoned under the guise of adherence to a religion or culture.

In South Africa, the Constitution contains an internal limitation on the right of religious and cultural communities to practise their religion and culture, subject

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<sup>52</sup> World Health Organization 'Female genital mutilation' published on 31 January 2018, available at <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>, accessed on 21 January 2019.

<sup>53</sup> Bronwyn Winter 'Religion, culture and women's human rights: Some general political and theoretical considerations' (2006) in *Women's Studies International Forum* at 381.

to not being exercised in a manner inconsistent with any provision of the Bill of Rights.<sup>54</sup> Such a limitation acknowledges that whilst group or collective rights for different cultures and religions must be protected, this right needs to be measured against rights to equality and non-discrimination,<sup>55</sup> human dignity,<sup>56</sup> life,<sup>57</sup> and freedom and security of the person.<sup>58</sup> Furthermore, girl children have the right to be protected from any form of maltreatment, degradation and abuse.<sup>59</sup> However, as stated above, we have a rift between what a constitutional dispensation prescribes and what indoctrinated beliefs perpetuate as acceptable treatment of women and girls.

Religious and cultural practices and beliefs are certainly not the only reason for the preservation of patriarchy, especially as many people neither associate nor identify with any religious or cultural groups. Accordingly, it is submitted that the prioritisation of men in recorded and repeated history, as well as constructs of masculinity, where the masculine is associated with strength, and femininity, usually associated with gentleness or even weakness, contribute to power dynamics between men and women.

A significant way in which women have suffered subordination is the invisibility of women's history. Lerner has noted that this neglect has adverse implications on the intellectual development of women, as it perpetuates inferiority and belittlement of women's societal contributions.<sup>60</sup> Role models and traditions emerge from the repetition of history and thus, selective perspectives of history being presented as full accounts of fact distort truth for future generations. The historical praise of male successes and prioritisation of male interests indoctrinate the minds of both men and women with a male-biased status quo.

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<sup>54</sup> Section 31 of the Constitution.

<sup>55</sup> Section 9 of the Constitution.

<sup>56</sup> Section 10 of the Constitution.

<sup>57</sup> Section 11 of the Constitution.

<sup>58</sup> Section 12 of the Constitution.

<sup>59</sup> Section 28(1)(d) of the Constitution.

<sup>60</sup> Fraser, A.S. 'Becoming Human: The Origins and Development of Women's Human Rights' in *Human Rights Quarterly* Vol 21 No 4 (1999) at 854.

In understanding the value attributed to masculinity, Cohn explores the concept of gendered discourse and provides that 'human characteristics are dichotomized, divided into pairs of polar opposites'<sup>61</sup> - for example, aggression and passivity, objectivity and subjectivity, logic and intuition, rationality and emotion. The former characteristics are generally attributed to masculinity and the latter to femininity. These masculine and feminine characteristics have historically been imposed on children from a very young age, where boys are given toy guns and are encouraged to be fighters and girls are given dolls and teddy bears and are encouraged to be caregivers. The so-called male characteristics are often considered to be more desirable, particularly in situations of politics, business and law. Cohn's article relates to gendered discourse in the context of war and national security, but her observations are applicable to everyday life: that whether you believe that women are (biologically or culturally) less aggressive than men, a person (man or woman) must generally adopt the masculine position in discourse in order to be successful and wield greater power.<sup>62</sup>

All of the above suggests that boys who are brought up in a world where most religions and cultures, history lessons and discourse favour them, will result in them being ordained with a sense of societal power over girls and women as well as entitlement and dominance, which is even more dangerous when combined with the physical strength that many men wield over women. It is submitted that these social and psychological factors, which result in a greater distribution of power to men, are toxic and contribute to the magnitude of sexual gender-based violence against women. In order to assist in rectifying societal power imbalances and gender inequality, we need to address discriminatory religious and cultural practices, shed a spotlight on important female figures in history, reevaluate how masculinity and femininity are imposed on children and counter how masculinity continues to overshadow the femininity in discourse. Furthermore, as Cohn poignantly notes, it would be the '...commitment and ability to develop, explore, re-think, and revalue those ways of thinking that get silenced and devalued that

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<sup>61</sup> Carol Cohn 'Wars, Wimps and Women: Talking Gender and Thinking War' (1993) in Miriam Cooke and Angela Woollacott (eds.) *Gendering War Talk* at 229.

<sup>62</sup> *Ibid* at 230.

would make a difference. For that to happen, men, too, would have to be central participants.<sup>63</sup> However, redistributing power in society is no easy task, mainly because those with power are generally reluctant to give it up. However, if we go back to the stance that gender equality, like racial equality, will reduce conflict and violence and optimise harmony, then it is surely a goal which we (women, men, girls and boys) should all pursue.

### **III INTERNATIONAL AND REGIONAL OBLIGATIONS TO PREVENT VIOLENCE AGAINST WOMEN AND GIRLS**

The United Nations and African Union (AU) have committed themselves to the achievement of non-discrimination and gender equality. Both bodies have clearly stipulated this goal in international and regional treaties, protocols and declarations in order to set standards for state parties. However, a clear disjuncture still exists between the ideals of non-discrimination and gender equality expressed in the international and regional documents, such as CEDAW, DEVAW, the African Charter and the Maputo Protocol, and the persistent battle with patriarchy faced by women and girls in everyday life in Africa and globally. Although it is the responsibility of state parties to bring legislation, policy and practice in line with the standards set out in international and regional law, monitoring bodies play a crucial role in holding states accountable and regulating the implementation of international and regional obligations. However, as mentioned above, violence against women has historically been relegated to the private sphere and, under the guise of state sovereignty, is sometimes regarded as beyond the scope of international and regional protection.<sup>64</sup> In this chapter, the various international and regional documents, as well as their monitoring bodies, will be discussed. In particular, General Recommendation No. 3<sup>65</sup> and General Recommendation No. 36<sup>66</sup> of the Committee on the Elimination of Discrimination Against Women (the CEDAW Committee), pertaining to education, will

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<sup>63</sup> Ibid at 239.

<sup>64</sup> Catherine A MacKinnon 'Rape, Genocide and Women's Human Rights' (1994) in Alexandra Stiglmeier (ed) *Mass Rape: The War against Women in Bosnia-Herzegovina* at 536.

<sup>65</sup> The CEDAW Committee *General Recommendation No. 3: Education and public information campaigns A/42/38* (1987) (General Recommendation No. 3).

<sup>66</sup> The CEDAW Committee *General Recommendation No. 36: The right of girls and women to education CEDAW/C/GC* (27 November 2017) (General Recommendation No. 36).

be considered. Additionally, General Recommendation No. 12,<sup>67</sup> General Recommendation No. 19<sup>68</sup> and General Recommendation No. 35,<sup>69</sup> pertaining to violence against women and measures to address it, will be explored.

**(a) Doctrine of State Responsibility versus State Sovereignty**

The 'doctrine of state responsibility' requires that states be held accountable for breaches of obligations under either customary international law or binding treaties, committed by or attributable to the state.<sup>70</sup> States are required to implement binding treaties and give effect to treaties at the domestic level in good faith, according to Articles 26 and 27 of the Vienna Convention on the Law of Treaties.<sup>71</sup>

Cook notes that, although states are required to promote and protect the enjoyment of human rights and punish violations thereof, states are seldom held responsible for ignoring human rights violations.<sup>72</sup> The problem is the lack of effective enforcement. Treaty bodies can only monitor and mandate compliance, but cannot directly enforce it. Implementation is dependent on national governments and political will. Furthermore, in determining a state party's responsibility in the elimination of discrimination on the basis of sex and gender and the achievement of equality, disagreement arises on which practices constitute discrimination.<sup>73</sup> Political, economic, social, cultural and religious manifestations of patriarchy and sexism become so deeply entrenched in society that they become the accepted, and even defended, status quo. Hence, attempts at dismantling the status quo by international monitoring

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<sup>67</sup> The CEDAW Committee *General Recommendation No. 12: Violence against Women* (1989) (General Recommendation No. 12).

<sup>68</sup> The CEDAW Committee *General Recommendation No. 19: Violence against Women A/47/38* (1992) (General Recommendation No. 19).

<sup>69</sup> The CEDAW Committee *General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No.19* CEDAW/C/GC/35 (14 July 2017) (General Recommendation No. 35).

<sup>70</sup> Rebecca J Cook 'State Responsibility for Violations of Women's Human Rights' (1994) *Harvard Human Rights Journal* 7 at 127.

<sup>71</sup> *Vienna Convention on the Law of Treaties*, opened for signature 23 May 1969, UNTS 1155 at 331 (entered into force 27 January 1980).

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid* at 155.

bodies are met by varying degrees of hesitation and resistance, often supported by the claims to state sovereignty, self-determination and national discretion.

**(b) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

CEDAW came into force in 1981 as the first international human rights treaty and principal legal instrument to systemically and substantively address the needs of women and it is, therefore, considered to be the 'International Bill of Rights for women'.<sup>74</sup> To date, 189 countries have ratified CEDAW, including South Africa which ratified the treaty on 15 December 1995.<sup>75</sup> CEDAW can be used to define norms and standards for constitutional guarantees, to interpret law and create pro-women policies. Once CEDAW has been ratified, positive actions are required by the state to promote and protect the rights of women. The CEDAW Committee oversees the state parties' compliance with CEDAW and the Optional Protocol to CEDAW, however, it can only mandate compliance and cannot directly enforce it. Accordingly, implementation is dependent on the political will of national governments.

The Preamble of CEDAW acknowledges that extensive discrimination against women continues to exist. Del Prado notes, 'while it is difficult to assess the normative value of many of the rights, the cataloguing of women's rights in one comprehensive instrument in itself is significant to the development of a unified program for the promotion of gender equality.'<sup>76</sup> Furthermore, the amount of state parties to CEDAW is a positive indicator that *de jure* gender discrimination is being addressed. Hence, CEDAW, although not entirely comprehensive, provides the scaffolding on which the CEDAW Committee may develop two of the convention's key principles: non-discrimination and substantive equality.

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<sup>74</sup> Del Prado, G.A. 'The United Nations and the Promotion and Protection of the Rights of Women: How well has the organisation fulfilled its responsibility?' in *William & Mary Journal of Women and Law* Vol 2 (1995) at 54.

<sup>75</sup> United Nations Office of the High Commissioner for Human Rights 'Status of Ratification Interactive Dashboard' for CEDAW, accessed on 16 January 2019 at: <http://indicators.ohchr.org>.

<sup>76</sup> *Ibid* 66.

Article 1 of CEDAW enshrines non-discrimination and realises the need for immediate relief and long-term corrective measures. Current social, economic and cultural conditions created through past discrimination have become entrenched in institutions. Laws, policies and practices may (intentionally or unintentionally) perpetuate discrimination. Discrimination can be direct or indirect and operates in the public and private spheres. Substantive equality is reflected in article 2 of CEDAW as a practical realisation of the equality principle. It acknowledges the embedded, systemic nature of discrimination and the necessity for enabling differential treatment of women to attain equitable outcomes and equal opportunities. Conversely, formal equality does not acknowledge the historical disadvantages of marginalised groups, but rather treats all people exactly the same – which may, therefore, not rectify inequality. A state which has ratified CEDAW is obligated to ensure the practical realisation of these two principles by incorporating principles into legal and administrative systems, abolishing discriminatory laws and adopting non-discriminatory ones, establishing tribunals for effective protection, ensuring elimination of all acts of discrimination and accelerating substantive equality.

One of the ways in which discrimination and inequality is fueled is through sex role stereotyping and prejudice. The typical example of sex role stereotyping includes women as the primary caregivers and homemakers and men as the breadwinners in heterosexual partnerships. This stereotype creates a power imbalance in the household, because the domestic labour of a woman cannot be measured in tangible, monetary value and, thus, a man's role is viewed as more significant. Furthermore, this stereotype seems to be so engrained in society that it persists despite many women holding jobs outside of the home. However, this is not always the case in this day and age as more households require an equal or close to equal financial and domestic labour contribution from men and women in heterosexual relationships, particularly in western societies. Article 5(a) of CEDAW deals with sex role stereotyping and prejudice. State parties are required to implement appropriate measures in order to modify social and cultural behavioural patterns of both men and women, which perpetuate the idea of superiority of men and inferiority of women or create stereotyped roles for men and women.

One of the ways in which to practically realise articles 1, 2 and 5(a) of CEDAW is through education, which is covered in article 10 of CEDAW. Although article 10 of CEDAW mostly relates to increasing access to educational opportunities, article 10(c) refers to the content of education and provides that:

‘(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by...the revision of textbooks and school programmes and the adaptation of teaching methods’.

State parties are required to submit reports on the legislative, administrative, judicial and other measures, which would include the content of education according to article 10 of CEDAW, which they have adopted to implement the provisions of CEDAW.<sup>77</sup> The reports cover national action taken to improve the situation of women. Reports should be submitted one year after entry into force for the state party concerned and thereafter, every four years.<sup>78</sup> Guidelines are provided by CEDAW to help states prepare reports. According to these guidelines, the initial report should exhibit a detailed account of the position of women in the country, which provides ‘a benchmark against which subsequent progress can be measured’.<sup>79</sup> After which, national reports are meant to update the previous report by noting key trends, and identifying obstacles to the full achievement of the CEDAW.<sup>80</sup>

Since South Africa’s ratification of CEDAW in 1995, it has disappointingly only submitted an initial report in 1998 (three years late) which covered the period from 1994 to 1997. The second report, which should have been submitted in 1999, was only submitted by the Office on the Status of Women (OSW) in 2009, covering the period from 1998 to 2008. No other CEDAW reports have been submitted to date.<sup>81</sup> There was, however, a shadow report submitted to the

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<sup>77</sup> Article 18 para 1 of CEDAW.

<sup>78</sup> Article 18 para 1 of CEDAW.

<sup>79</sup> UN Women ‘Reporting’, available at <http://www.un.org/womenwatch/daw/cedaw/reporting.htm>, accessed on 17 January 2019.

<sup>80</sup> *Ibid.*

<sup>81</sup> B Thompson ‘South Africa’s compliance with the Convention on the Elimination of all Forms of Discrimination against Women & 1995 Beijing Platform for Action reporting requirements: Commission

CEDAW Committee in 2011.<sup>82</sup> These reports will be discussed in further detail below in relation to the CEDAW Committee's General Recommendations.

**(c) General Recommendations by the CEDAW Committee**

The CEDAW Committee reports annually to the General Assembly of the United Nations on its activities. Based on an examination of the reports and information submitted by state parties, CEDAW may make Concluding Comments and General Recommendations.<sup>83</sup> Concluding Comments and General Recommendations are tools to interpret and expand on the provisions of CEDAW, which are generally quite broad and vague.

General Recommendations are not legally binding and they, therefore, allow a limited form of enforcement. However, they still possess strong persuasive value and offer guidance to state parties. There are thirty-seven General Recommendations to date. General Recommendations were initially succinct and dealt with the procedural elements and mechanics of CEDAW.<sup>84</sup> CEDAW's General Recommendations then began to address emerging contemporary issues hindering the achievement of equality.<sup>85</sup> More recently, CEDAW has provided comprehensive interpretations of the articles.<sup>86</sup>

Most significantly, General Recommendation Nos. 12, 19 and 36 have proven to be powerful in a substantive capacity by addressing the distinct normative

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on Gender Equality briefing' (20 July 2010) in *Parliamentary Monitoring Group*. It was verified that no further CEDAW reports have been submitted since 2008 by examining the 'Reports' section on the website for South African Department of Women, available at [http://www.women.gov.za/index.php?option=com\\_content&view=category&layout=blog&id=20&Itemid=114](http://www.women.gov.za/index.php?option=com_content&view=category&layout=blog&id=20&Itemid=114), accessed on 24 January 2019.

<sup>82</sup> Centre for the Study of Violence and Reconciliation, People Opposing Women Abuse and Western Cape Network on Violence Against Women 'South African Shadow Report on the Implementation of the Convention for the Elimination of all forms of Discrimination against Women submitted to the CEDAW Committee's 48<sup>th</sup> Session 17 January - 4 February 2011'.

<sup>83</sup> Article 21 para 1 of CEDAW.

<sup>84</sup> For example: Reporting Guidelines (*General Recommendation No. 2*, 1987), Reservations (*General Recommendation No. 4*, 1987) and Resources (*General Recommendation No. 7*, 1988).

<sup>85</sup> For example: Equal remuneration for work of equal value (*General Recommendation No. 13*, 1989) and Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS) (*General Recommendation No. 15*, 1990).

<sup>86</sup> For example: Article 7: Political and Public life (*General Recommendation No. 23*, 1997), Article 12: Women and Health (*General Recommendation No. 24*, 1999) and Article 16: Economic Consequences of Marriage, Family Relations and their Dissolution (*General Recommendation No. 29*, 2013).

gap, or rather a gaping hole, in CEDAW: the failure to address violence against women in any of the articles in CEDAW. General Recommendation No. 12 concisely stipulates that four areas relating to violence against women need to be reflected in the CEDAW periodic reports of state parties, namely: protective legislation, other measures adopted to eradicate violence against women, support systems for victims and statistical data on the incidence of violence against women. General Recommendation No. 19 reiterated the need for statistical data required by General Recommendation No.12.<sup>87</sup> This brought overdue public attention to the historical invisibility of women's violent oppression in the private sphere. However, as was explored in Chapter II, the full magnitude of sexual violence in South Africa is not reflected in national statistics due to under-reporting.

Due to many state parties failing to recognise the connection between violence against women and violations of fundamental human rights and freedoms, General Recommendation No. 19 identified gender-based violence as 'a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.'<sup>88</sup> This draws attention to the fact that there are violations of multiple rights and freedoms when violence against women is inflicted. This includes the rights to life, not to be subject to cruel, inhuman or degrading treatment, equal protection according to humanitarian norms in times of international or internal conflict, liberty and security of the person, equal protection under the law, equality in the family, the highest standard of physical and mental health, and just and favourable conditions of work.<sup>89</sup> One of the CEDAW Committee's specific recommendations provides that, firstly, state parties should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women and that, secondly, effective measures should be taken to overcome these attitudes and practices including, 'education and public information programmes to help eliminate prejudices which hinder women's equality'.<sup>90</sup>

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<sup>87</sup> The CEDAW Committee *General Recommendation No. 19* para 24.

<sup>88</sup> *Ibid* para 1.

<sup>89</sup> *Ibid* para 7.

<sup>90</sup> *Ibid* para 24(e) and (f).

In 2017, General Recommendation No. 35 was published in order to update General Recommendation No. 19, to mark the twenty-fifth anniversary of its adoption and to provide further guidance to state parties.<sup>91</sup> It candidly points out that there is a 'culture of impunity' towards gender-based violence against women in many states, which can be attributed to poorly implemented legislations, eroding legal and policy frameworks, often justified in the name of tradition, culture or fundamentalist ideologies and reduced financial support.<sup>92</sup> The CEDAW Committee provides that gender-based violence can be rooted in an 'ideology of men's entitlement and privilege over women, social norms regarding masculinity, the need to assert male control or power, enforce gender roles, or prevent, discourage or punish what is considered to be unacceptable female behaviour'.<sup>93</sup> General Recommendation No. 35 goes one step further than General Recommendation No. 19 in that it provides that appropriate preventative measures include the 'integration of gender equality content into curricula at all levels education' and, furthermore, all curricula should 'target stereotyped gender roles, promote values of gender equality and non-discrimination, including non-violent masculinities'.<sup>94</sup>

The provisions of General Recommendation Nos. 19 and 35 referred to above can be read with collectively with General Recommendation No. 3, which succinctly provides that all state parties are urged to to adopt 'education and public information programmes, which will help eliminate prejudices and current practices that hinder the full operation of the principle of the social equality of women'. Furthermore, General Recommendation No. 36 of 2017 states that education, as a human right, enhances the enjoyment of other human rights and would, therefore, be able to promote gender equality.<sup>95</sup> In order to promote gender equality, 'educational content, pedagogies and learning environments should be gender sensitive, responsive to the needs of girls and women and

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<sup>91</sup> The CEDAW Committee *General Recommendation No. 35* para 3.

<sup>92</sup> *Ibid* para 7.

<sup>93</sup> *Ibid* para 19.

<sup>94</sup> *Ibid* para 35 (a).

<sup>95</sup> The CEDAW Committee *General Recommendation No. 36* para 9.

transformative for all'.<sup>96</sup> General Recommendation No. 36 also acknowledges that:

'Instead of challenging entrenched discriminatory gender norms and practices, in many societies, gender stereotypes are reinforced through schooling and it maintains the gender order of society, expressed through the reproduction of the female/male and subordination/domination hierarchies...and the private/public dichotomies.'<sup>97</sup>

In order to address gender stereotyping in education which perpetuates direct or indirect discrimination against girls and women, the CEDAW Committee recommends that state parties develop and implement programmes, including awareness-raising and educational campaigns about CEDAW, gender relations and gender equality, in order to alter the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary practices, in line with article 5(a) of CEDAW.<sup>98</sup> Additionally, educational curricula, textbooks and teaching materials should be reviewed and amended as necessary so as to 'promote more balanced, accurate, healthy and positive projections of the images and voices of women and girls.'<sup>99</sup>

In response to General Recommendations Nos. 12 and 19, South Africa's aforementioned initial CEDAW report of 1998, reported mainly on legislative developments aimed at addressing violence against women<sup>100</sup> and non-legislative developments including an ad hoc parliamentary committee issue of violence against women, as well as various campaigns,<sup>101</sup> but no educational programmes. It appears, however, from South Africa's CEDAW Report of 2009, that the government was attempting to implement an 'integrated multi-sectoral

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<sup>96</sup> Ibid para 13.

<sup>97</sup> Ibid para 16.

<sup>98</sup> Ibid para 27(b).

<sup>99</sup> Ibid para 27(d).

<sup>100</sup> CEDAW Committee 'Consideration of Reports submitted by State Parties under Article 18 of the Convention on the Elimination of violence Against Women: Initial Report of State Parties: South Africa' CEDAW/ZAF/1 (25 February 1998) at p 113 - 114

<sup>101</sup> Ibid at p 115 – 116.

approach' to address violence against women and girl children.<sup>102</sup> This approach comprises of 'a broad policy framework; law reform; administrative measures; institutional mechanisms; victim empowerment; integrated planning; education and training of service providers; customer service; shelters; **public education** and awareness and alternative dispute resolution' (emphasis added).<sup>103</sup>

The 2009 CEDAW Report provides that a gender sensitive curriculum has been implemented,<sup>104</sup> that the curriculums and teaching materials have been reviewed to eliminate gender stereotyping and other forms of bias and discrimination<sup>105</sup> and that life skills and life orientation subjects address the topics of sexual abuse and gender-based violence.<sup>106</sup> The curriculum changes have been supported by the Girls' Education Movement (GEM) and the Boys' Education Movement (BEM), which were rolled out by the South African government in 2003 and were supported by UNICEF, after initially being launched in Uganda in 2001.<sup>107</sup> GEM is described as 'an African child-driven grassroots movement where children and young people in schools and communities throughout the continent work to bring positive changes in the lives of African girls and boys'.<sup>108</sup> GEM is implemented through school-based clubs. Clubs are not the exclusive domain of girls but include boys as 'strategic partners' in gender transformation.<sup>109</sup> The GCM, as discussed in Chapter V, possesses many similarities to GEM.

Yet it seems from the report that these initiatives have had a limited impact on altering sexual behaviour due to factors such as 'poor content, inadequate teacher training, persistence of cultural barriers, educator resistance and

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<sup>102</sup> The Precedency of the Republic of South Africa 'South African CEDAW Report: Progress made on the Implementation of the Convention for the Period 1998 to 2008' (2009) (South Africa's 2009 CEDAW Report) at p 150.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid at p 151.

<sup>105</sup> Ibid at p 87.

<sup>106</sup> Ibid at p 88.

<sup>107</sup> UNICEF South Africa 'Girls Education Movement South Africa' (2006), available at [https://www.unicef.org/southafrica/resources\\_8145.html](https://www.unicef.org/southafrica/resources_8145.html), accessed on 9 February 2019, at p 5.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

parental objections to sex education'.<sup>110</sup> Given that South Africa has not submitted a CEDAW report in a decade, it is difficult to know what the present status of these initiatives is or whether any progress has been made. However, UNICEF South Africa reported that in 2011 approximately 300 000 learners in over 5 000 schools have taken part in GEM and BEM clubs, but these have mostly focussed on HIV/AIDS prevention.<sup>111</sup> Unfortunately, there does not seem to be any articles published about GEM and BEM clubs in South Africa since 2011, so it is unclear whether or not any advancements over the last eight years have been made. Nevertheless, there is undoubtedly a solid foundation in place for an HRE programme with the goal of advancing gender equality. This will aid as a preventative measure against gender-based violence against women, as it falls squarely within the General Recommendations of the CEDAW Committee, particularly the most recent General Recommendations of 2017 and is supported by the previously established GEM and BEM clubs.

**(d) Declaration on the Elimination of Violence Against Women (DEVAW)**

As mentioned above, CEDAW failed to include an article dedicated to violence against women and, accordingly, this normative gap has, for the most part, been filled by General Recommendation Nos. 12, 19 and 35. However, in 1993, a year after General Recommendation No. 19 was published, DEVAW was proclaimed by the UN General Assembly. DEVAW was also established in light of the Nairobi Forward-Looking Strategies for the Advancement of Women, which emerged from the Third World Conference on Women in 1985.<sup>112</sup> The Nairobi Forward-Looking Strategies marked a turning point in the silence regarding violence against women, by linking the achievement of equality, development and peace with the eradication of violence against women,<sup>113</sup> which is emphasised in the preamble of DEVAW.

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<sup>110</sup> South Africa's 2009 CEDAW Report at p 88 – 89.

<sup>111</sup> UNICEF South Africa 'Girls and boys education movement' (2011), available at [https://www.unicef.org/southafrica/education\\_4718.html](https://www.unicef.org/southafrica/education_4718.html), accessed on 9 February 2019.

<sup>112</sup> World Conference to review and appraise the achievements of the United Nations Decade for Women: Equality, Development and Peace 'Nairobi Forward-looking Strategies for the Advancement of Women' A/CONF./116/28/Rev. (26 July 1985) para 13.

<sup>113</sup> Hilikka Pietilä 'Engendering the Global Agenda: A Success Story of Women and the United Nations' Women's Movement and Internationalisation ECPR Workshop, Mannheim, 26-31 March 1999 at p 17.

DEVAW acknowledges that effective implementation of CEDAW will contribute to the elimination of violence against women and that DEVAW is intended to compliment the process. The preamble also recognises that violence against women is a 'manifestation of historically unequal power relations between men and women' and also affects the ability of women to attain legal, social, political and economic equality. Article 4 provides that states should not invoke custom, tradition or religious consideration to avoid their obligations with respect to the elimination of violence against women.

In the list of 'appropriate means' to pursue the elimination of violence against women, article 4(j) of DEVAW lists education as a mechanism to modify the social and cultural behavioural patterns of men and women to eliminate prejudice and counter beliefs of the superiority or inferiority of either of the sexes, which reiterates the wording of article 5(a) of CEDAW, relating to sex role stereotyping. Article 4(o) pays homage to NGOs globally for the efforts in raising awareness and alleviating the problem of violence against women and article 4(p) provides that states should facilitate and enhance the work of NGOs. This demonstrates how the grassroots work of NGOs like CRC is crucial in eliminating violence against women. The South African government should offer NGOs support and resources in order for them to materialise the provisions of DEVAW and CEDAW. However, despite DEVAW delivering a powerful communication to the international community to support the idea of HRE with a gender equality agenda, it is not a legally-binding treaty and is being overlooked or disregarded.

**(e) Beijing Declaration and Platform for Action**

The Beijing Declaration and Platform for Action was adopted by the UN General Assembly in 1995 at the Fourth World Conference on Women, which built upon the aforementioned Third World Conference on Women held in Nairobi in

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1985.<sup>114</sup> The most important contribution from the Beijing Declaration and the Platform for Action for the purposes of this paper is that it acknowledges the needs of the girl child. Article 29 of the Beijing Declaration specifically advocates for the prevention and elimination of violence against women and girls.

Other significant provisions of the Beijing Declaration include article 20, which emphasises the importance of the role of NGOs in the successful implementation of the Platform for Action, as well as a collaboration between national governments and non-governmental organisations. Furthermore, the achievement of the goals set out in the Platform for Action requires resources and funding mechanisms from both national governments and international organisations and institutions, particularly to developing countries, which is discussed in article 36 of the Beijing Declaration. The Beijing Declaration also introduced the concept that men should be actively involved in the pursuit of gender equality.<sup>115</sup> This suggests that HRE programmes which advance gender equality should not only be directed towards girl children, but also boys.

Chapter IV.D. of the Platform for Action deals with violence against women and once again recognises that it is ‘a manifestation of the historically unequal power relations between men and women’.<sup>116</sup> The Platform for Action also acknowledges that there is a lack of educational programmes to address the causes of violence against women<sup>117</sup> and requires governments to implement such programmes.<sup>118</sup> The Platform for Action advocates for educational programmes which sensitise girls and boys, women and men, to the detrimental effects of violence in the home and society and how to communicate without violence.<sup>119</sup>

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<sup>114</sup> *Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women: Action for Equality, Development and Peace, Beijing A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995) (15 September 1995) (the Beijing Declaration and Platform for Action).*

<sup>115</sup> Article 25 of the Beijing Declaration.

<sup>116</sup> Chapter IV section D para 118 of the Platform for Action at p 49.

<sup>117</sup> *Ibid.*

<sup>118</sup> Chapter IV section D.1 para 124(k) of the Platform for Action at p 52.

<sup>119</sup> Chapter IV section D.1 para 124(g) of the Platform for Action at p 52.

Chapter IV.L. of the Platform for Action deals with 'The Girl Child'. It provides that '[g]irls are often treated as inferior and are socialised to put themselves last, thus undermining their self-esteem.'<sup>120</sup> Gender-biased curricula need to be addressed<sup>121</sup> and teachers need to ensure that they do not perpetuate sex role stereotypes.<sup>122</sup> The Platform for Action also promotes sexual education which emphasises informed consent and respect,<sup>123</sup> which could act as a deterrent to sexual gender-based violence. Moreover, it specifically requires governments to implement HRE<sup>124</sup> and develop training programmes and materials for teachers and educators with a view to developing gender-sensitive teaching.<sup>125</sup>

State parties to CEDAW are required to include information on measures taken to implement the Platform for Action.<sup>126</sup> In South Africa's 2009 CEDAW Report, the Beijing Declaration and Platform for Action is acknowledged at several points with respect to new legislation and policies, including the National Gender Policy,<sup>127</sup> gender mainstreaming in political processes and government leadership,<sup>128</sup> specialised sexual offences courts, training initiatives and counselling services.<sup>129</sup> As previously mentioned, South Africa's 2009 CEDAW Report stipulates that curriculum changes, supported by the GEM and BEM clubs, to address sex role stereotyping were implemented, which is in line with Chapter IV.L of the Platform for Action.<sup>130</sup>

The Platform for Action is reviewed and appraised every five years to continue to implement its commitments. The next review will be in 2020, which will also mark the 25<sup>th</sup> anniversary of the Declaration and Platform for Action. In February 2015, South Africa produced its Beijing +20 Report.<sup>131</sup> Although the

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<sup>120</sup> Chapter IV section L para 260 of the Platform for Action at p 110.

<sup>121</sup> Chapter IV section L para 261 of the Platform for Action at p 110.

<sup>122</sup> Chapter IV section L para 262 of the Platform for Action at p 110.

<sup>123</sup> Chapter IV section L para 267 of the Platform for Action at p 111.

<sup>124</sup> Chapter IV section L.3 para 279(c) of the Platform for Action at p 114.

<sup>125</sup> Chapter IV section L.3 para 279(e) of the Platform for Action at p 115.

<sup>126</sup> Chapter V section C. para 323 of the Platform for Action at p 124.

<sup>127</sup> South Africa's 2009 CEDAW Report at p 44.

<sup>128</sup> Ibid at p 46.

<sup>129</sup> Ibid at p 152.

<sup>130</sup> Ibid at p 62.

<sup>131</sup> South African Department for Women 'South Africa's Beijing +20 Report Progress made on the Implementation of the Beijing Declaration and Platform for Action and the Outcomes Document of the 23rd Special Session of The General Assembly in 2000' (February 2015).

Beijing +20 Report does mention certain educational and awareness raising initiatives on harmful religious and cultural practices,<sup>132</sup> it does not mention the present status of school curricula or the aforementioned GEM and BEM clubs. It, therefore, appears that the idea of an HRE programme to promote gender equality has fallen somewhat to the wayside, but if this project was reinitiated and gained momentum, it would be a useful aid in the implementation of the Platform for Action in South Africa. It is hoped that this will be reflected in South Africa's future Beijing Progress reports.

**(f) The African (Banjul) Charter on Human and Peoples' Rights (the African Charter) and the Maputo Protocol**

Given the critique of international treaties and declarations reflecting a western, Eurocentric bias,<sup>133</sup> it is crucial to consider the provisions of regional African documents which may provide nuanced approaches to addressing sexual gender-based violence against women and girls in South Africa. Accordingly, the provisions of the African Charter and the Maputo Protocol will be considered. The African Charter came into force in 1986 and the Maputo Protocol was adopted in 2003. The African Charter is binding on state parties of the AU (formerly the 'Organization of African Unity'). South Africa ratified the African Charter in 1996<sup>134</sup> and ratified that Maputo Protocol in 2004.<sup>135</sup> Article 1 of the African Charter requires state parties to adopt measures to give effect to the provisions of the African Charter. Article 30 of the African Charter stipulates that the Commission on Human and Peoples' Rights (ACHPR) will be established to promote and protect human and peoples' rights in Africa.

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<sup>132</sup> Ibid at p 71.

<sup>133</sup> Adamantia Pollis and Peter Schwab 'Human Rights: A Western Construct with Limited Applicability' (1979) in Adamantia Pollis and Peter Schwab (eds.) *Human Rights: Cultural and Ideological Perspectives 1* at 575: 'The Western political philosophy upon which the Charter [UN] and the Declaration [UDHR] are based provides only one interpretation of human rights, and this Western notion may not be successfully applicable to non-Western areas'.

<sup>134</sup> ACHPR 'Ratification Table: African Charter on Human and Peoples' Rights', available at <http://www.achpr.org/instruments/achpr/ratification/>, accessed on 10 February 2019.

<sup>135</sup> ACHPR 'Ratification Table: Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa', available at <http://www.achpr.org/instruments/women-protocol/ratification/>, accessed on 10 February 2019.

In promoting the African Charter, the task of the ACHPR is three-fold. Firstly, ACHPR is required to undertake research into problems in Africa, disseminate information to state parties and organise conferences and seminars. Although this work requires the development of a relationship with governments and citizens on the ground, the African Charter states that the ACHPR may only 'give its views or make recommendations' to state parties.<sup>136</sup> Secondly, the ACHPR is required to formulate legal principles and rules which national legislations may then use to solve legal issues relating to human and peoples' rights.<sup>137</sup> Thirdly, cooperation with other African and international institutions is encouraged.<sup>138</sup> Thus, the work of the CEDAW Committee should be considered in carrying out the ACHPR's mandate.

Interestingly, an interpretation of the provisions of the African Charter will be made only at the request of a state party, an institution of the AU or an African organisation recognised by the AU,<sup>139</sup> unlike the General Recommendations of the CEDAW Committee, which are made at its discretion. The interpretation of the Maputo Protocol is designated to the African Court on Human and Peoples' Rights.<sup>140</sup> Nevertheless, through its progressive interpretation of the African Charter, the ACHPR has provided guidance to states on the content of their obligations under the African Charter.<sup>141</sup> Furthermore, the ACHPR's thematic resolutions have elucidated the scope of rights and have 'provided a yardstick for the development of domestic law'.<sup>142</sup>

The preamble of the African Charter recognises the duty of state parties to eradicate discrimination on the basis of sex and this is reiterated in article 2, which is supported by article 19, which enshrines the right to equality. Although article 17 protects the right of individuals to take part in their cultural practices and places a duty on state parties to promote and protect traditional values,

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<sup>136</sup> Article 45(1)(a) of the African Charter.

<sup>137</sup> Article 45(1)(b) of the African Charter.

<sup>138</sup> Article 45(1)(c) of the African Charter.

<sup>139</sup> Article 45(3) of the African Charter.

<sup>140</sup> Article 27 of the Maputo Protocol.

<sup>141</sup> ACHPR 'Impact of the African Charter on domestic human rights in Africa' (2016), available at <http://www.achpr.org/instruments/achpr/impact-on-domestic-human-rights/>, accessed on 9 February 2019.

<sup>142</sup> Ibid.

and article 18(2) places a duty on African states to protect family units which are recognised as the custodians of traditional values, these articles are subject to article 18(3). Article 18(3) provides that each state party must adhere to international conventions and declarations to ensure the elimination of discrimination against women and ensure the protection of the rights of women and children. Thus, the African Charter does not allow harmful religious or cultural practices against women or girls and does not advocate patriarchal familial structures, which is in line with the provisions of CEDAW, DEVAW and the Beijing Declaration and Platform for Action. Unlike the discussed international documents, the African Charter not only prescribes rights, but also prescribes corresponding responsibilities or 'duties' for individuals, such as article 28 of the African charter, which promotes mutual respect between African individuals. In terms of article 25 of the African Charter, state parties are required utilise education to promote rights and corresponding responsibilities contained in the African Charter. It is submitted that the aforementioned articles of the African Charter, read collectively, support HRE aimed at eliminating discrimination on the basis of sex and promoting gender equality.

The Maputo Protocol is, arguably, the most far-reaching codification of women's human rights. For example, the Maputo Protocol includes progressive provisions on widow's rights<sup>143</sup> and the special protection of elderly women<sup>144</sup> and women with disabilities.<sup>145</sup> The preamble of the Maputo Protocol also acknowledges that although many African states have ratified the African Charter, many states fail to protect women against discrimination and harmful practices. The preamble of the Maputo Protocol reaffirms the principle of promoting gender equality and article 2(1) places obligations to combat all forms of discrimination using appropriate legislative, institutional and other measures. The Maputo Protocol promotes the integration of a gender perspective into 'programmes and activities and in all other spheres of life'<sup>146</sup>

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<sup>143</sup> Article 20 of the Maputo Protocol.

<sup>144</sup> Article 22 of the Maputo Protocol.

<sup>145</sup> Article 23 of the Maputo Protocol.

<sup>146</sup> Article 2(1)(c) of the Maputo Protocol.

and explicitly provides that state parties should commit themselves to modifying the social and cultural behavioural conduct of men and women through education.<sup>147</sup> Additionally, appropriate measures should be adopted to protect women from all forms of violence, particularly sexual violence, and to ensure the protection of each woman's dignity.<sup>148</sup> State parties are required to use curricula to combat elements in traditional and cultural beliefs, practices and stereotypes which 'legitimise and exacerbate the persistence and tolerance of violence against women.'<sup>149</sup>

After the adoption of the Maputo Protocol, the Declaration on Gender Equality in Africa<sup>150</sup> was created and it encouraged all state parties to sign and ratify the Maputo Protocol by 2004.<sup>151</sup> The Declaration on Gender Equality in Africa recognises the prevalence of gender-based violence in state parties and stipulates an agreement to sustain public campaigns against gender-based violence and eradicate impunity of crimes committed against women.<sup>152</sup> Unfortunately, as with DEVAW and the Beijing Declaration, the Declaration on Gender Equality in Africa only offers persuasive value and, to date, only 36 of the 54 state parties in Africa have signed and ratified the Maputo Protocol.

Most recently, in 2017, the ACHPR published Guidelines on Combatting Sexual Violence and its Consequences in Africa (the Sexual Violence Guidelines).<sup>153</sup> The Sexual Violence Guidelines specifically provide that state parties should create educational programmes and materials to promote gender equality, combat discrimination and violence against women, and challenge sexist and gender stereotypes.<sup>154</sup> Teaching materials should include specific modules on all forms of sexual violence. Specialists should develop these programmes and ensure that programmes are age-appropriate, and the programmes should be implemented at all levels in schools and universities, as well as other

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<sup>147</sup> Article 2(2) of the Maputo Protocol.

<sup>148</sup> Article 3(4) of the Maputo Protocol.

<sup>149</sup> Article 4(d) of the Maputo Protocol.

<sup>150</sup> Assembly of the African Union *Solemn Declaration on Gender Equality in Africa* Assembly/AU/Decl.12(III) 3<sup>rd</sup> Ordinary Session 6-8 July 2004 Addis Ababa, Ethiopia.

<sup>151</sup> *Ibid* para 9.

<sup>152</sup> *Ibid* para 4.

<sup>153</sup> ACHPR 'Guidelines on Combatting Sexual Violence and its Consequences in Africa' (11 May 2017).

<sup>154</sup> *Ibid* at p 21 para 13.1.

educational settings<sup>155</sup> – which could include NGOs like CRC. There should also be ways to evaluate the programmes' effectiveness.<sup>156</sup> Unfortunately, the Sexual Violence Guidelines themselves do not provide examples of content or exercises to be included in these educational programmes. However, like the international instruments (CEDAW, DEVAW, the Beijing Declaration and Platform for Action) and other regional instruments (the African Charter, the Maputo Protocol and the Declaration on Gender Equality), the Sexual Violence Guidelines provide yet another motivation for South Africa to develop an HRE programme developed towards promoting gender equality.

#### **IV HUMAN RIGHTS EDUCATION**

In order to consider how HRE could be developed and formalised in the GCM to combat the prevalence of gender-based sexual violence against women, it is necessary to consider the history and development of HRE in both the global and South African context. Hence, international declarations and obligations will first be discussed. Secondly, the Bantu education system under apartheid will be canvassed and contrasted with the development of school curriculums under the new constitutional dispensation. Thirdly, the challenge of resource availability in education will be contemplated in light of constitutional provisions. Finally, the achievement of the genuine transformation sought through HRE will be considered.

##### **(a) International Commitment to HRE**

The United Nations first alluded to the concept of HRE in the Universal Declaration of Human Rights, in which it was stated that '[e]ducation shall be directed to ... the strengthening of respect for human rights'.<sup>157</sup> HRE is about 'empowering the individual to both recognise human rights abuses and commit to their prevention'.<sup>158</sup> However, Gerber notes that despite the concept of HRE being in existence for almost seventy years, numerous catastrophic human rights

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<sup>155</sup> Ibid para 13.2.

<sup>156</sup> Ibid.

<sup>157</sup> Article 26(2) of the UDHR.

<sup>158</sup> Felisa Tibbitts 'Understanding What We Do: Emerging Models for Human Rights Education' (2002) 48(3-4) *International Review of Education* 159 at 166.

violations have taken place and smaller-scale human rights abuses occur on a daily basis.<sup>159</sup> Thus, there is a pressing need to undertake a critical evaluation of states' implementation of HRE to ascertain gaps for improvement.

The UNESCO Associated Schools Programme in 1953 was the first attempt to teach human rights in formal schools settings.<sup>160</sup> However, it was only in 1974 when an international education document directly mentioned a need for HRE in school curriculums in UNESCO's *Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms*.<sup>161</sup> At the International Congress on the Teaching of Human Rights in 1978, the aims on HRE were expressed in a three-pronged approach:

- i) 'Fostering the **attitudes** of tolerance, respect and solidarity inherent in human rights;
- ii) Providing **knowledge** about human rights, in both their national and international dimensions, and the institutions established for their implementation;
- iii) Developing the individual's **awareness** of the ways and means by which human rights can be translated into social and political reality at both the national and international levels.'<sup>162</sup>

(emphasis added)

Article 29 of the Child Convention reiterates and expands upon the earlier call of the UDHR. Significantly, 196 countries have ratified the Child Convention - making it the most widely ratified international human rights treaty.<sup>163</sup> The first

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<sup>159</sup> Paula Gerber *Understanding Human Rights: Educational Challenges for the Future* 1 ed (2013) at 2.

<sup>160</sup> David Suarez 'Education Professionals and the Construction of Human Rights Education' (2007) 51 (1) *Comparative Education Review* at 49.

<sup>161</sup> UNESCO *Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms* (1974).

<sup>162</sup> Judith Torney-Purta 'Human Rights' (1984) *UNESCO Teaching for International Understanding, Peace and Human Rights* at 59-60.

<sup>163</sup> United Nations Office of the High Commissioner for Human Rights 'Status of Ratification Interactive Dashboard' for the Child Convention, available at: <http://indicators.ohchr.org>, accessed on 16 January 2019.

General Comment produced by the Committee on the Rights of the Child (the Child Committee) stipulates that article 29 is the ‘foundation stone’ for HRE programmes.<sup>164</sup> It should be noted that although the general comments, like general recommendations of the CEDAW Committee, are non-binding, they provide the most authoritative interpretations of a treaty’s provisions and are therefore, highly persuasive in nature.

The Child Committee has advocated for a holistic and child-centred approach to education with an overall objective of maximising a child’s capacity ‘to participate fully and effectively in a free society.’<sup>165</sup> Article 29 adds a ‘qualitative dimension’ to the right to education set out in article 28 of the Child Convention by linking education to the ‘rights and inherent dignity of the child’.<sup>166</sup> Furthermore, the Child Committee states that the right to education is not merely about enhancing access to education, it is about developing the content disseminated through education.<sup>167</sup> Furthermore, the scope of mandatory content extends beyond basic numeracy and literacy skills.<sup>168</sup> HRE is described as an ‘indispensable tool’ for a child to achieve ‘a balanced, human-rights friendly response’ to challenges presented by the modern era and therefore, should not be considered as a ‘cosmetic afterthought’ by international and national bodies involved in developing education policy.<sup>169</sup>

In unpacking article 29(1) of the Child Convention, the Child Committee has specifically identified the role that HRE could play in combatting and addressing racism, racial and ethnic discrimination, xenophobia and related discrimination. Ignorance and the propagation of distorted ideologies fuel racism and related phenomena and HRE may be used as a ‘reliable and enduring antidote’.<sup>170</sup> The Child Committee argues that HRE can be used to encourage values, such as a respect for differences, and challenge ‘all aspects of discrimination and

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<sup>164</sup> Committee on the Rights of the Child *General Comment No. 1 (2001), Article 29 (1), The Aims of Education* 26<sup>th</sup> Sess, UN Doc CRC/GC/2001/1 (17 April 2001) para 15.

<sup>165</sup> *Ibid* para 12.

<sup>166</sup> *Ibid* para 2.

<sup>167</sup> *Ibid* para 3.

<sup>168</sup> *Ibid* para 12.

<sup>169</sup> *Ibid*.

<sup>170</sup> *Ibid* para 11.

prejudice'.<sup>171</sup> Thus, it seems that a primary objective of HRE is the achievement of social cohesion and nation-building. This is reinforced by the Child Committee's advocacy for peaceful dispute resolution. The Child Committee contends that there is a need for children to learn life skills to resolve conflicts in a non-violent manner<sup>172</sup> and that educational programmes should be used as tools to prevent violence and conflict.<sup>173</sup>

Article 4 of the Child Convention requires parties to take 'all appropriate legislative, administrative, and other measures' for the implementation of the rights in the treaty and in a complementary fashion. Article 42 of the Child Convention requires parties to make the principles and provisions...widely known, by appropriate and active means, to adults and children alike.' In the Committee's fifth General Comment, 'other' measures include 'the development of special structures...monitoring, training and other activities.'<sup>174</sup> More specifically, the development of a comprehensive national strategy is recommended.<sup>175</sup> This strategy must be constantly revised and widely disseminated.<sup>176</sup> The Child Committee stresses that children need to be made aware of their rights and recommends that knowledge of the Child Convention and human rights is incorporated into school curriculums.<sup>177</sup> Similarly, those working with and for children need to be taught about the Child Convention through 'initial and in-service training.'<sup>178</sup>

Given the immense potential for positive social change through HRE, in 1994 the United Nations General Assembly proclaimed that 1995 to 2005 would be the United Nations Decade for Human Rights Education. The Plan of Action for the UN Decade for Human Rights Education, although not binding, probably provides the most comprehensive explanation of HRE's objectives, stating that

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<sup>171</sup> Ibid.

<sup>172</sup> Ibid para 9.

<sup>173</sup> Ibid para 16.

<sup>174</sup> Committee on the Rights of the Child *General Comment No. 5 (2003), General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)*, 34<sup>th</sup> Sess, UN Doc CRC/ GC/2003/5 (27 November 2003) para 1.

<sup>175</sup> Ibid para 28.

<sup>176</sup> Ibid para 33.

<sup>177</sup> Ibid para 68.

<sup>178</sup> Ibid para 69.

HRE will be:

'aimed at the building of a universal culture of human rights through the imparting of knowledge and skills and the moulding of attitudes and directed to:

- (a) The strengthening of respect for human rights and fundamental freedoms;
- (b) The full development of the human personality and the sense of its dignity;
- (c) The promotion of understanding, tolerance, **gender equality** and friendship among all nations, indigenous peoples and racial, national, ethnic, religious and linguistic groups;
- (d) The enabling of all persons to participate effectively in a free society;
- (e) The furtherance of the activities of the United Nations for the maintenance of peace'.<sup>179</sup>

(emphasis added)

## **(b) Resistance against Bantu Education**

HRE is not an ahistorical concept. On the international level, it was formulated largely in response to the atrocities committed during the holocaust. In South Africa, HRE is the product of a long struggle for a non-racial and democratic education system. Colonialism instigated discriminatory practices and policies, which were formalised and intensified under apartheid legislation. In 1948, the Nationalist Government enforced segregation and inequality between black and white people. Bantu education for black learners was an 'educational configuration of apartheid'.<sup>180</sup>

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<sup>179</sup> 'Report of the United Nations High Commissioner for Human Rights on the implementation of the Plan of Action for the United Nations Decade for Human Rights Education' Appendix to UN DOC A/51/506/Add. 1 51<sup>st</sup> Sess Agenda Item 110(b) (12 December 1996) para 2.

<sup>180</sup> Andre Keet & Nazir Carrim 'Human Rights and Curricular Reform in South Africa' (2006) 5 *JSSE* at 89.

The Bantu Education Act of 1953 (Bantu Education Act) transferred the control of educating black learners from the Department of Education to the Department of Native Affairs. Prior to the Bantu Education Act, black learners were mostly educated by missionary schools, which received state subsidies for teaching resources and teachers' salaries. The effect of the Bantu Education Act was a coerced centralisation of education, as missionary schools were required to implement a racially discriminatory curriculum to continue receiving state subsidies. As a result, many missionary schools were either sold to government or shut down entirely. Consequently, the government was in a position to influence and monitor the education of black learners. Black learners would be taught about their cultural heritage through a distorted colonial lens to engrain ideas of inferiority and 'mould Africans into compliant citizens and productive workers.'<sup>181</sup> Hendrik Verwoerd, the Minister of Native Affairs at the time, stated that black learners would be taught 'in accordance with their opportunities in life'.<sup>182</sup> Hence, the deliberate goal of Bantu education was to deny black learners the same educational opportunities and resources enjoyed by white learners and further the interests of white supremacy.

Keet and Carrim note that the period between 1976 and 1989 included 'two major watershed events' in the resistance against apartheid education.<sup>183</sup> First, in 1976, the Soweto Uprising took place and sparked the school boycotts of the 1980s, which exhibited the grave extent to which 'educational sites became one of the primary arenas of struggle'.<sup>184</sup> Secondly, the Vaal Uprisings between 1984 and 1985 demonstrated a shift from boycott to a long-term strategy of reconstruction through the development of an alternative People's Education (PE).<sup>185</sup> One of the key features of PE is that 'education must empower and lead to transformation' and that PE should be directed towards the vision of a 'unitary, anti-racist and anti-sexist schooling system'.<sup>186</sup> Hence, there is a strong overlap between the ideals central to PE, which assisted in the dismantling of apartheid,

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<sup>181</sup> Nancy L. Clark & William H. Worger *South Africa: The Rise and Fall of Apartheid* (2004) at 53.

<sup>182</sup> *Ibid* at 55.

<sup>183</sup> Keet & Carrim *op cit* note 180.

<sup>184</sup> *Ibid*.

<sup>185</sup> *Ibid*.

<sup>186</sup> *Ibid* at 90.

and HRE in the constitutional era, which could hopefully curtail sexual gender-based violence against women.

**(c) Aspirations for a New South Africa**

During the political negotiation period between 1990 and 1994, a 'values framework' was developed for a post-apartheid educational policy. The framework was developed through the National Education Policy Investigation (NEPI) in 1992 and supported a pro-HRE approach. The NEPI reports articulated fundamental HRE principles including equality, non-racism, non-sexism, democracy and redress, which were then included in White Paper One on Education and Training in 1995 and 'formalised HRE as a policy concern for the 'new' South Africa'.<sup>187</sup>

The Interim Constitution of 1993<sup>188</sup> included a justiciable Bill of Rights and a legislative process for incorporating international law into domestic law and thus, provided 'the first broad compliance framework for the transformation of the educational system'.<sup>189</sup> Following the first democratic election in 1994, South Africa ratified a number of international and regional human rights instruments in quick succession, 'to bring these normative frameworks into the realm of national justifiability'.<sup>190</sup> Resultantly, the international human rights framework and its various monitoring and compliance mechanisms furthered the development of HRE in South Africa.

The Child Convention was ratified on 16 June 1995 and marked a significant milestone for three reasons. Firstly, the ratification took place exactly nineteen years after the Soweto Uprising and was thus, deeply connected with a painful national memory. Secondly, the Child Convention was the first international treaty to be ratified by South Africa and signified the re-entering of South Africa into the international community after years of deliberate exclusion with

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<sup>187</sup> Ibid.

<sup>188</sup> Constitution of the Republic of South Africa, Act 200 of 1993.

<sup>189</sup> Keet & Carrim op cit note 180 at 99.

<sup>190</sup> Ibid.

economic sanctions in condemnation of apartheid. Lastly, the ratification took place at the start of the UN Decade for HRE and the Department of Education of South Africa had been directly involved in the drafting of the UN guidelines.<sup>191</sup>

The National Education Policy Act of 1996 responded to South Africa's new constitutional vision as well as international commitments<sup>192</sup> and between 1996 and 2000, a new outcomes-based curriculum was developed. During this period a human rights lobby group, the Forum for Democracy and Human Rights Education, advocated for the institutionalisation of HRE in the curriculum, which would involve 'the translation of human rights principles into outcomes and assessment standards.' Due to implementation problems of the new curriculum, a review committee was appointed by the Department of Education. In the review committee's report, it recommended that 'HRE and education for civic responsibility should be infused through all learning areas.' In January 2001, curriculum working groups were established to either deal with specific learning areas (including Life Orientation, Mathematics, Social Sciences and Arts and Culture) or issues affecting subjects across the board (including Human Rights and Inclusivity).<sup>193</sup> The working groups drew on the expertise of 150 curriculum developers.<sup>194</sup>

The approach adopted by the Human Rights and Inclusivity Working Group has been criticised as one of 'minimum infusion' where there is a propensity 'to deal with human rights issues 'indirectly or not in a holistic way'.<sup>195</sup> However, there was undoubtedly a measured and coherent strategy for infusing HRE into all eight learning areas.<sup>196</sup> The Human Rights and Inclusivity Working Group recommended to Learning Area Working Groups that when developing their curriculums, there should be a concerted effort to incorporate exit-level outcomes within three categories:

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<sup>191</sup> Ibid.

<sup>192</sup> Section 4(a) and (b) of the National Education Policy Act 27 of 1996.

<sup>193</sup> Keet & Carrim op cit note 28 at 92.

<sup>194</sup> Ibid.

<sup>195</sup> Ibid at 93.

<sup>196</sup> The eight learning areas or subjects are: Arts and Culture, Economic and Management Sciences, Languages, Life Orientation, Mathematics, Natural Sciences, Social Sciences and Technology.

1. Human Rights and Responsibilities;
2. Principles, Values and Attitudes; and
3. Participatory Citizenship, Civics and Governance.

For example, according to the 'Human Rights and Responsibilities' category, by the end of Grade 9, learners should be able to:

- (a) 'Demonstrate an awareness of the evolution of human rights.
- (b) Display the capacity and skills to access human rights protection mechanisms, nationally and internationally.
- (c) Express, debate, evaluate, take and defend positions on human rights and responsibilities with regard to contemporary challenges (for example: crime, environment, poverty, discrimination).
- (d) Garner, analyse and reflect on information and take part in human rights debates.<sup>197</sup>

The cross-curricular HRE approach was supported by the Chairpersons of the Ministerial Project Committees for curriculum development of the General Education and Training band (Grades R (reception year) to 9) and Further Education and Training band (Grades 10 to 12). Thus, the idea of a subject solely dedicated to HRE has never been a serious consideration in curriculum development.<sup>198</sup> However, it is submitted that 'Life Orientation' is the subject that is most strongly aligned with the objectives of HRE.

In the early 2000s, the former Minister of Education, Kader Asmal, was instrumental in bringing Life Orientation into the national school curriculum for a generation of 21<sup>st</sup> century learners.<sup>199</sup> Life Orientation is concerned with the 'study of the self in relation to others and to society' and addresses 'values, attitudes and skills about the self, the environment, responsible citizenship, a

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<sup>197</sup> Keet & Carrim op cit note 180 at 96.

<sup>198</sup> Ibid.

<sup>199</sup> Erna Prinsloo 'Implementation of life orientation programmes in the new curriculum in South African schools: perceptions of principals and life orientation teachers' (2007) 27(1) *South African Journal of Education* at 156.

healthy and productive life, social engagement, recreation and physical activity and career choices.<sup>200</sup> Hence, Life Orientation includes HRE, but covers a broad array of topics (including religious studies and physical education). Unfortunately, Life Orientation has been critiqued to have many problems in its practical implementation.<sup>201</sup> In a recent qualitative study, Life Orientation teachers indicated that they felt they had been insufficiently trained to teach Life Orientation.<sup>202</sup>

Although the suggested exit-level outcomes and the inclusion of Life Orientation in the national curriculum theoretically align with international standards, they will remain ambitions without the corresponding practical implementation. Criticism has been levied as a favouring of policy production over implementation, a lack of clarity on mechanisms for implementation as well as incoherence between various policy expressions.<sup>203</sup> Jansen has termed this as ‘political symbolism over policy craft’.<sup>204</sup> A shift to the language of human rights in educational legislation and policy indicated monumental progress in the early years of democracy, but alone, this is insufficient to achieve visible societal change.

#### **(d) HRE as a Constitutional Right**

The harsh reality is that South Africa’s schooling system perpetuates the inequality of apartheid’s discriminatory practices:

‘South Africa is still a tale of two schools: One which is functional, wealthy and able to educate students; with the other being poor, dysfunctional, and unable to equip students with the necessary numeracy and literacy they should be acquiring in primary school’<sup>205</sup> (emphasis added).

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<sup>200</sup> Ibid.

<sup>201</sup> Anne Jacobs ‘Life Orientation as experienced by learners: a qualitative study in North-West Province’ (2011) 31 *South African Journal of Education* at 212.

<sup>202</sup> Prinsloo op cit note 48.

<sup>203</sup> Keet & Carrim op cit note 28 at 100.

<sup>204</sup> Ibid.

<sup>205</sup> Nicholas Spaul ‘Poverty & privilege: Primary school inequality in South Africa’ (2013) *International Journal of Educational Development* 33 at 444.

The disparity in quality of education between two types of schools (public and private) in the same country becomes even more problematic when one recognises that the private, well-resourced schools are also distinctly white. Thus, an anticipated and justified argument against the increased distribution of resources to HRE's implementation is that the funds available for basic education should be directed towards improving public school infrastructure and basic literacy and numeracy levels. However, a defence of insufficient resources may be rendered invalid if one could successfully argue that HRE falls within the scope of the right to basic education guaranteed by the Constitution.<sup>206</sup> The Constitutional Court has not yet had the opportunity to directly pronounce the content and scope of the right to basic education.<sup>207</sup>

Section 7(2) of the Constitution requires the state to 'respect, protect, promote and fulfil' the Bill of Rights. Furthermore, the Bill of Rights 'applies to all law and binds the legislature, the executive, the judiciary and all organs of state'.<sup>208</sup> In *Ex Parte Gauteng Provincial legislature: In re Dispute Concerning the Constitutionality of Certain Provisions of the Gauteng School Bill of 1995*,<sup>209</sup> the Court confirmed that the state is required to take positive steps towards achieving the realisation of section 29, beyond ensuring non-interference with the right.<sup>210</sup> Additionally, the textual construction of the right to basic education differs significantly from other socio-economic rights. In *Governing Body of the Juma Musjid Primary School & others v Essay NO & others*,<sup>211</sup> it was affirmed that the right to basic education is 'immediately realisable' as it has 'no internal limitation requiring that the right be progressively realised'.<sup>212</sup>

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<sup>206</sup> Section 29(1) of the Constitution provides that: 'Everyone has the right - (a) to a basic education, including adult basic education'.

<sup>207</sup> L Arendse 'The Obligation to Provide Free Basic Education in South Africa: An International Law Perspective' (2011) in *PER / PELJ* at 117.

<sup>208</sup> Section 8(1) of the Constitution.

<sup>209</sup> *Ex Parte Gauteng Provincial Legislature: In re Dispute Concerning the Constitutionality of Certain Provisions of the Gauteng School Bill of 1995* 1996 3 SA 165 (CC) para 9.

<sup>211</sup> *Governing Body of the Juma Musjid Primary School & others v Essay NO & others (Centre for Child Law & another as Amicus Curiae)* 2011 (8) BCLR 761 (CC) para 37.

<sup>212</sup> *Ibid.*

Hence, the right to basic education may only be limited in terms of the 'general limitations' clause. Rights contained in the Bill of Rights are not absolute and may be limited in terms of section 36 of the Constitution. This section provides that rights may be limited only in terms of a law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. It has been suggested that for a limitation to be justifiable, 'the limitation must serve a purpose that most people would regard as compellingly important.'<sup>213</sup> In determining reasonableness and justifiability, the court must consider listed factors<sup>214</sup> and any additional competing interests. There needs to be 'an assessment based on proportionality'<sup>215</sup> to determine whether the limitation is reasonable and necessary. However, in this hypothetical legal argument, there is no law of general application restricting the right.

Section 231 of the Constitution stipulates the process for international agreements to be signed, ratified and enacted in national legislation. International agreements become binding upon ratification<sup>216</sup> but only become law within South Africa once enacted into legislation, with the exception of self-executing provisions.<sup>217</sup> The Child Convention and CEDAW have not been enacted in domestic legislation but, in terms of section 39(1)(b) of the Constitution, courts must consider international law when interpreting the Bill of Rights. The Court in *Makwanyane*<sup>218</sup> recognised the importance of international law for the purpose of statutory interpretation. Furthermore, by providing content to the obligations of the state under section 7(2) of the Constitution, the court must consider international law.<sup>219</sup> Thus, it is submitted that articles 4, 28, 29 and 42 of the Child Convention and the interpretations thereof (discussed above) could be used collectively to interpret 'basic education' as including HRE in the South African context.

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<sup>213</sup> Iain Currie & Johan de Waal *The Bill of Rights Handbook* 6 ed (2013) at 151.

<sup>214</sup> Section 36(1) of the Constitution: '(a) the nature of the right, (b) the importance and purpose of the limitation (c) the nature and extent of the limitation, (d) the relation between the limitation and its purpose; and (e) less restrictive means to achieve the purpose.'

<sup>215</sup> *S v Makwanyane* 1995 (3) SA 391 (CC) para 104.

<sup>216</sup> Section 231(2) of the Constitution.

<sup>217</sup> Section 231(4) of the Constitution.

<sup>218</sup> *Makwanyane* supra note 64 para 35.

<sup>219</sup> *Glenister v President of the Republic of South Africa and Others* 2011 (3) SA 347 (CC) para 106.

### (e) Genuine Transformation through HRE

The legislative and policy reforms undertaken by South Africa during the transition into democracy formally met the requirements of article 29 of the Child Convention.<sup>220</sup> There was a fundamental re-working of the school curriculums and a revision of textbooks and other school materials.<sup>221</sup> However, for genuine societal change to occur, the people who are expected to transmit the values within HRE need to be convinced of HRE's importance. Thus, the pre-service and in-service teacher training schemes need to be developed further.<sup>222</sup>

The Committee has stated that where 'major incidents of racism, racial discrimination...and related intolerance have occurred then it can be reasonably presumed that the government has not fulfilled its obligations to promote the rights contained within Child Convention and should therefore adopt 'appropriate additional measures'.<sup>223</sup> The increased student protest action against institutional racism and sexism in South Africa since 2015 indicates that racism and sexism are still deeply embedded in society and therefore, appropriate additional measures should be adopted by South Africa to eradicate them. These additional measures may entail improving the content and pedagogy<sup>224</sup> of HRE through research and expert advice.

In an empirical study using archived messages of Human Rights Education Associates,<sup>225</sup> two of the core issues grappled with by the parties were the content and pedagogy (method of teaching) of HRE. On content, it was noted that there needs to be shift away from 'token curricular attention to human rights' and that in order for HRE programmes to be useful and relevant, they should be directed to addressing the needs and interests of the people for which they are made.<sup>226</sup> This aligns with the Committee's view that HRE should provide more

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<sup>220</sup> The Child Committee *General Comment No. 1* para 17.

<sup>221</sup> *Ibid* para 18.

<sup>222</sup> *Ibid*.

<sup>223</sup> *Ibid* para 24.

<sup>224</sup> The method and practice of teaching, especially as an academic subject or theoretical concept.

<sup>225</sup> Human Rights Education Associates is an INGO dedicated to promoting and teaching HRE and has developed a strong international network of human rights educators.

<sup>226</sup> Suarez op cit note 160 at 61.

than abstract information about of international human rights treaties and should urge children to reflect on human rights values in their personal experiences and within their own communities.<sup>227</sup> On pedagogy, several questions were raised by the participants as to whether it is possible to achieve the goals of HRE in formal school settings given the existing power imbalances between teachers and learners.<sup>228</sup> However, critical pedagogy in schools was not a theory supported by all participants, mostly in favour of pragmatic considerations, which demonstrates a divergence of views as to the effective implementation of HRE.

Nevertheless, an appropriate pedagogy for HRE could be likened to persuasion as a theory of social influence, as discussed by Goodman and Jenks.<sup>229</sup> Although Goodman and Jenks discussed social influence in relation to state actors, the theories are equally applicable to individuals. Coercion alters behaviour by threatening material costs (punishment) or offering material benefits (reward), and hence, secures compliance based on a perceived interest.<sup>230</sup> Acculturation achieves conformity with a particular rule through cognitive and social pressures. Persuasion, on the other hand, occurs when an actor has engaged with and evaluated 'the content of a particular message – a norm, belief or practice' and has become convinced of its 'truth, validity or appropriateness'.<sup>231</sup> The internalisation of a new norm or rule will cause actors to 'redefine their interests and identities accordingly'.<sup>232</sup> In order to achieve persuasion, a message may be framed in such a way that it 'resonates with already accepted norms'.<sup>233</sup> Additionally, one can provide a cue to prompt an actor to consider the merits of a message in greater depth because 'substantial empirical evidence suggests that actors often change their beliefs when, faced with new information, they systemically examine and defend their positions.'<sup>234</sup>

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<sup>227</sup> The Child Committee *General Comment No. 1* para 15.

<sup>228</sup> Suarez op cit note 160 at 62.

<sup>229</sup> R, Goodman and D, Jenks 'Sociological Theory Insights into International Human Rights Law' (2008) Institute for International Law and Justice NYU Colloquium Paper at 3.

<sup>230</sup> Ibid.

<sup>231</sup> Ibid.

<sup>232</sup> Ibid at 5.

<sup>233</sup> Ibid at 6. Furthermore, frame resonance is impacted by three factors: centrality ('how essential the beliefs, values or ideas associated with a message are to the target') experiential commensurability ('the extent to which the message is congruent with the life or experiences of the target') and narrative fidelity ('the extent to which the message accords with fundamental experiences of the target').

<sup>234</sup> Ibid at 7.

Persuasive pedagogy is necessary to address the psychological and social development of children in relation to their historical placement. Children born in the post-apartheid era remain heirs to the lingering residue of a racially and economically delineated past.<sup>235</sup> It is submitted that persuasive pedagogy has yet to be fully utilised. This is supported by the fact that transformation has been brought to the forefront by university students who were largely spoon-fed 'The Rainbow Nation' ideals in school. In a desperate attempt to be distanced from ancestral oppressors, white children tend to adopt the narrative of being colour-blind.<sup>236</sup> The unfortunate result is a denial of white privilege and a failure to recognise that white people largely remain beneficiaries of apartheid, even when a white child did not personally impose former oppression. The nation-building strategies were necessary and admirable in the democratic transition phase, but have not resulted in meaningful integration and reconciliation.

Accordingly, the next generation of children requires a platform in education to contemplate and challenge entrenched and overlooked prejudices. Learners ought to be taught history thoroughly and receive opportunities to discuss and engage freely and openly. As the Child Committee notes, 'children are capable of playing a unique role in bridging many of the differences that have historically separated groups of people.'<sup>237</sup> Newly established foundations from HRE will hopefully encourage empathy for marginalised, vulnerable and previously disadvantaged groups in the attempt to move from formal notions of equality, to substantive ones. As Kriegler J stated in *President of the RSA v Hugo*, 'Equality is our Constitution's focus and its organising principle.'<sup>238</sup>

HRE has been recognised as powerful tool for social change, to challenge inequality and achieve unity. As explained above, the adoption of HRE in South Africa is rooted in the anti-apartheid liberation struggle and, therefore, it is unsurprising that the original goal of HRE was largely to address and counter

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<sup>235</sup> Saloshna Vandeyar 'Shifting selves: The emergence of new identities in South African schools' (2008) 28 *International Journal of Educational Development* at 287.

<sup>236</sup> *Ibid* at 292.

<sup>237</sup> The Child Committee *General Comment No. 1* para 4.

<sup>238</sup> *President of the RSA v Hugo* 1997 (4) SA 1 (CC) para 74.

racial prejudice. However, it is crucial to remember that sexism has been and remains to be rife in society and has often been overlooked in the pursuit of racial equality. If government shines a proverbial spotlight on one social ill, there is heightened sensitivity and awareness in society towards manifestations of that social ill, which means there is a greater chance of it being challenged. Conversely, by constantly overlooking a social ill, there is greater ignorance in society of that social ill's existence, which allows it to fester. Thus, HRE in South African schools should start emphasising gender equality to a greater extent. Furthermore, the full power of HRE with a feminist agenda could be unlocked by creating nuanced content and a persuasive pedagogy that is transferred to educators in training schemes.

## V CHILDREN'S RESOURCE CENTRE AND THE GIRL CHILD MOVEMENT



The collaboration with CRC was highly valuable for two main reasons. Firstly, it assisted in avoiding a reinvention of the wheel. The wealth of knowledge and experience of people who have worked directly with children and have developed and facilitated programmes specifically for children could be utilised. Secondly, the collaboration presented an opportunity to determine whether there were any gaps to develop one of the programmes (i.e. the GCM) and consider whether such developments were desired, meaningful and practically implementable. The approach adopted in the empirical research will firstly be explained. Thereafter, the history of CRC and the GCM and how the GCM works and what its current projects are will be discussed. Lastly, the challenges facing the GCM and possible solutions thereto will be considered.

## (a) Empirical Research

The empirical research sought to incorporate ‘human-centred design’.<sup>239</sup> Human-centred design is a method of gathering research from a grassroots level to identify challenges experienced by a community and design practical solutions – as opposed to theorising in armchairs and ivory towers. The process requires interaction and innovation and, therefore, human-centred design has been described as sitting at the ‘the intersection of empathy and creativity’.<sup>240</sup> It takes place in three phases, namely:

1. **Inspiration:** engaging with a community to understand a problem;
2. **Ideation:** coding insights to design a solution that matches the community’s needs; and
3. **Implementation:** testing the designed solution with the community and making the necessary alterations in order to perfect the solution so that it may potentially be expanded and shared with other communities facing similar problems.

However, in this case, only the ideation and inspiration phases were executed, in order for the implementation phase to be realised in future. The research also differed from the original human-centred design model as a solution (i.e. the GCM) did not need to be developed from scratch. Thus, the goal was, instead, to see how the GCM currently operates and how it could be enhanced and expanded to achieve its asserted objectives, as well as tackle the further identified problems. The research specifically sought to determine whether and how HRE is integrated into the GCM, and if not, whether and how HRE could be integrated into the GCM.

Empirical research was conducted by analysing CRC archives (documents and videos), attending a school-based GCM group’s session in June 2016, observing a GCM workshop in June 2016 and the GCM National Conference in December

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<sup>239</sup> DesignKit ‘What is Human-Centred Design?’, available at <http://www.designkit.org/human-centered-design>, accessed on 17 January 2019.

<sup>240</sup> Ibid.

2017 and interviewing five GCM facilitators at CRC, the co-founder and coordinator of CRC (Mr Marcus Solomon) and the national coordinator of the GCM (Ms Josephine de Klerk). A schedule of the archives analysed is annexed and marked 'Annexure 1'. Outlines of the GCM workshop and national conference are annexed and marked 'Annexure 2.1' and 'Annexure 2.2'. Lastly, a schedule of the interview questions which were posed to the GCM facilitators is annexed and marked 'Annexure 3'.<sup>241</sup>

## (b) History of CRC and the GCM

CRC was established in 1983 to mobilise girl and boy children, between the ages of 7 and 14, to overcome the barriers of segregation, discrimination and prejudice enforced by the apartheid regime. The need for CRC was first realised in the early 1980s when several civic and youth organisations made attempts to establish children's groups in their communities in places such as Woodlands, Mitchell's Plain, Hanover Park and Mannenberg. Unfortunately, these civic and youth organisations lacked resources to run these groups effectively. There was also a lack of facilities to train people on how to set up groups and conduct programmes.<sup>242</sup> Realising the need to develop organised and safe spaces for children to come together and reimagine a society beyond apartheid, CRC was created, with its underlying philosophy that **children are potential agents for change**. An evaluation of CRC in 1999 provides the mission statement of CRC as follows:

'To assist children to organise themselves into a Children's Movement, to create growth of a united national children's organisation and social movement for children of primary school going age in South Africa, and to support such a movement with training, equipment, and in organising itself'.<sup>243</sup>

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<sup>241</sup> Due to the author's limited experience in conducting empirical research, it was decided that interviews with the GCM members who are children would not be appropriate. It is acknowledged that the lack of insight directly from the children within the GCM presents a limitation on the findings and would need to be incorporated when finalising a suitable HRE programme.

<sup>242</sup> Brief History of the Children's Resource Centre and The Children's Movement, 2004 at p 9.

<sup>243</sup> Budlender, D. 'Evaluation of the Girl Child Movement, South Africa' 2014 at p 3.

CRC began by organising various activities, including outings, playing organised games, creating games, story-telling, making toys and organising ways to celebrate International Children's Day.<sup>244</sup> While the overarching values entrenched in CRC initiatives include anti-racism and anti-sexism, CRC initiatives also began to address topics which were specifically facing Western Cape townships in which CRC groups were operating. These topics included poverty, HIV/AIDS, unemployment, drug abuse, crime and gangsterism.<sup>245</sup>

In the 1990s, girl children in Mitchells Plain initiated a 'Girl Child Campaign' to encourage mutual respect between girls and boys. The Namibian Women's Association had a Girl Child Movement and invited representatives from the Girl Child Campaign to attend their Girl Child Conference in 2002, with the idea to get girls from countries in the Southern African Development Community to share experiences and exchange ideas. Following the 2002 Conference, the Girl Child Organisation (GCO) was launched on 9 August 2003 (South Africa's Women's Day). At the 2003 GCO Launch, various reports were presented which dealt with the problems facing girls, the objectives of GCO and how to set up school-based and community-based groups (which will be discussed below). The 2003 GCO Launch also showcased poetry, educational dramas, songs and dances.<sup>246</sup>

CRC re-named the 'Girl Child Organisation' to the 'Girl Child Movement' and formally launched the GCM in 2006. The focus was on girl children aged between 7 and 14, however, over time older girls and young women who had previously been GCM members would become GCM facilitators (also referred to as coordinators, teachers or trainers) for the younger girls. The GCM promotes the manifesto, '**Empower girls now. Secure a better future**', together with three values: '**Respect yourself. Respect others. Respect the environment**'. When the GCM was launched, it aimed to address challenges including gender-based violence, HIV and AIDS, teenage pregnancy and the associated school dropout.<sup>247</sup>

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<sup>244</sup> Ibid.

<sup>245</sup> Budlender op cit note 243 at p 12.

<sup>246</sup> Launch of the Girl Child Organisation, 2003 at p 3 - 5.

<sup>247</sup> Budlender op cit note 243 at p 2.

In the Launch of the GCM document (2006), it specifies that girl children can help change sexist attitudes of boys, such attitudes may socialise boys into becoming abusers of girls and women. Furthermore, the GCM Launch Document provides that the other main aims of the GCM are to:

- Unite the creative energies of girls to help build and sustain a qualitatively better world for girls;
- Demand the rights guaranteed by the Constitution;
- Put in place building blocks for girls to feel safe in their homes and communities;
- Set up and sustain co-operatives for girls to run their own programmes to overcome poverty; and
- Build solidarity across language, culture, class, religion and race.

### **(c) How the GCM works and Current Projects of the GCM**

The GCM activities take place in school-based and community-based groups in Western Cape, Eastern Cape, Kwa-Zulu Natal and Gauteng. These groups are overseen by facilitators. In theory, each GCM group has an executive and there are further executives at the regional and national levels. Each group has a facilitator, who works on a voluntary basis. Facilitators are intended to oversee and monitor the GCM groups designated to them, with the girls having the autonomy to decide on and manage the activities. This is consistent with CRC's support of an alternative child-centred education, unlike a more hierarchical, teacher-centred approach favoured in most schools.<sup>248</sup> In reality, the extent to which facilitators and/or girls make decisions differs between groups.

At present, there are no set programmes for groups nationwide, instead, it is up to the members and facilitators to determine their respective activities, provided that the activities conform with the core value of the GCM. Although there are no set programmes, there are documents to guide facilitators, including the 'GCM National Coordinators Education and Training' document which outlines the

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<sup>248</sup> Ibid at p 4.

mission and vision of the GCM and suggests ways in which this can be achieved, such as the election of task teams (locally, regionally and nationally), gender equality debates, discussions with boys and men, awareness-raising campaigns including campaigns against child and women abuse and advice offices for children.

The National GCM Report for August – November 2009 addressed the topic of ‘What’s keeping violence against women alive?’. This report provides that the GCM aims to mobilise and unite girls to work together in an organised fashion to eradicate violence against them and to strive towards changing the social norms that are keeping violence against women alive. The GCM aims to form a core group of girls at each school that will develop and implement a long-term programme of action which will take the process of changing social norms that is keeping violence against women alive. In order to disseminate this strategy and prepare girls to be ‘peer educators’, one-day workshops were hosted. Interestingly, a comment that was repeated throughout the workshops was that boys must be part of the process of changing social norms.<sup>249</sup> One of the exercises used at these workshops to encourage social norms to be challenged required the girls to split up into groups and discuss the following problematic statements and consider how to counter them:

- ‘A woman who is seen or heard to be beaten by her intimate partner must have done something to deserve it.’
- ‘Women entice men and that is why they are raped.’
- ‘Friends and family members should not do anything about a man who is known to be violent towards his intimate partner.’<sup>250</sup>

The GCM also hosts weekend workshops, such as the one attended and observed in June 2016, which provide an opportunity for the GCM groups from the same province (e.g. Western Cape Province) to integrate, make friends and discuss various strategies. At the June 2016 GCM Workshop, groups of girls

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<sup>249</sup> National Girl Child Movement Report August – October 2009: What’s keeping violence against women alive? at p 7.

<sup>250</sup> Ibid at p 6.

from Khayelitsha, Mitchell's Plain, Gugulethu, Factreton and Delft came together for a weekend away. The June 2016 GCM Workshop was beneficial for two reasons. Firstly, it provided an opportunity to make new friends with girls from other areas in the province. Given that most girls from Khayelitsha and Gugulethu are black and first-language isiXhosa speakers and most girls from Mitchell's Plain and Factreton are coloured and first-language Afrikaans speakers, the 2016 Workshop was also conducive to social integration. Although most girls are bilingual (in that they can speak English as well as their mother tongue) and can communicate easily with each other, if a girl cannot speak English, someone who is bilingual will assist with interpretation in general conversation as well as presentations, to ensure that no one is excluded – this was witnessed on several occasions. Secondly, the GCM groups get to touch base, reflect on the history of and what the main aims of the GCM are and exchange ideas and initiatives which different groups have carried out in order to fulfil the aims of the GCM.

The main substantive areas covered at the June 2016 GCM Workshop included teenage pregnancy/reproductive health awareness and body development/personal hygiene/menstruation. The girls broke away into four groups. The first group created a PowerPoint slideshow on the general aims of the GCM and how to disseminate the GCM's goals. The second and third groups dealt with the aforementioned substantive topics. The fourth group's task linked to the topic of body development/personal hygiene/menstruation by developing what are referred to as 'Co-operatives', which teach the girls basic entrepreneurial skills to address the issue of government's failure to provide girls in townships with sanitary pads. Essentially, the GCM groups can contribute small amounts of money to pool together for capital to purchase sanitary pads, as well as soap and deodorants. These items can be sold at a slightly marked-up price in order to generate profit which can then be used to buy more stock and fund other GCM projects and campaigns. These Co-operatives teach the girls business proficiency and financial empowerment on a micro-level, which they can take forward into adulthood. Once these topics had been discussed in small groups, each group selected one or two representatives to present their understandings and findings to the rest of the girls.

On a larger scale, there is the national conference, such as the one attended in December 2017, where the GCM groups from the Western Cape, Kwa-Zulu Natal, Eastern Cape and Gauteng, as well as representatives from Namibia came together in a similar fashion to the June 2016 Workshop. Similarly to the June 2016 Workshop, the December 2017 National Conference began by recapping the history and goals of the GCM. Homage was paid to those diagnosed and living with HIV/AIDS in South Africa, given that 1 December is World AIDS Day and sexual and reproductive education is disseminated through the GCM. A declaration by boy members of CRC was made in support of the GCM to commit to assisting girls in the eradication all forms of violence and abuse against women and girls. The boys pledged to help create a culture and practice of treating girls as equals.

The December 2017 National Conference also revealed the new campaign, #PowerOf10MillionGirls, which is the GCM's strategy to address government's failure to provide girls with free sanitary pads and the detrimental consequences of this, most significantly, that many girls are not attending school when menstruating. Instead of waiting for government to address this challenge, the GCM members are sewing reusable cloth sanitary pads, which are both economical and environmentally friendly. The goal is to ensure that every girl in South Africa has access to safe and hygienic sanitary products. The reusable sanitary pads will be distributed through co-operatives (as described above).

In addition to the more scholastic tasks of the GCM, song, dance and theatrical performances have always been hugely important in all of the GCM gatherings, demonstrated in the collection of videos listed in Annexure 1 and observed at the June 2016 Workshop and December 2017 National Conference. The GCM encourages participation, confidence and creativity in the girls and, from observations of the June 2016 Workshop and the December 2017 National GCM Conference, it appears that every girl is delighted to get involved. The GCM anthem's lyrics ring out at all GCM events as a sign of solidarity between the girls and also as a reinforcement of the female empowerment instilled by the GCM.

**(d) Challenges faced in the implementation of the GCM**

Overall, there is no a standard approach to training facilitators of the GCM. Where the facilitators were previously GCM members, they draw on their personal experience to guide them. Josephine de Klerk, the National Coordinator of the GCM, reported that regions were asking for a standardised curriculum, training programme or programme of activities, to be developed to guide facilitators.<sup>251</sup> When the question was posed to the five facilitators in the interviews of 2017 as to whether they would benefit from a formal curriculum or a training session on human rights, each responded positively. However, as was expressed in one interview, although there should be more structure, girl children still need to retain autonomy in the GCM meetings and feel free to speak and direct the flow of conversation on various topics.

From the interviews, it was generally expressed that the GCM teaches girls about human rights. The girls also apparently have a basic understanding of the Constitution and the Bill of Rights, but this is not taught through the GCM. Hence, there may be a disconnect in understanding that the GCM's values are entrenched in law and the law, at the national, regional and international levels, can be used to support the GCM's goals.

When the facilitators were asked to describe various terms such as 'gender equality', 'non-discrimination', 'human dignity' and 'women's empowerment', some facilitators were more confident to provide answers than others but, on the whole, each facilitator was able to explain these terms, albeit in various, creative ways, often drawing on personal stories and experiences. The aim would be to preserve this scope for creativity in attributing meaning to these phrases but to perhaps provide basic lesson outlines to guide children in conversations and to perhaps have 'model answers' to assist where confusion arises. Additionally, most of the facilitators interviewed were previously GCM members themselves so would naturally have a better understanding of these concepts, however, if the GCM is to expand and more facilitators, who were not previously GCM

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<sup>251</sup> Budlender op cit note 242 at p 5.

members, are to be recruited then there should be a curriculum in place to assist facilitators.

The additional challenge CRC and the GCM face is the lack of funding for their projects. Post-1994, many foreign organisations were pouring funds into the South African NGO sector. Unfortunately, it seems that the heyday of funding NGOs has dwindled and CRC has been placed in a precarious financial position.

**(e) Addressing challenges faced in the implementation of the GCM and Advancing the GCM's initiatives**

Government should be budgeting for the education of children about women and girl's human rights and should support grass-roots organisations like CRC. Given the numerous international and regional documents which stipulate that national governments should direct resources to preventative measures against sexual gender-based violence, as discussed in Chapter III, the gap left by the withdrawal of foreign private funding to South African NGOs ought to be plugged by government. In order to address the financial position of CRC, it is suggested that the GCM members should congregate for awareness-raising campaigns and gain the attention of the media to hold government to account in fulfilling their international and regional obligations.

Until a concerted effort is made to acknowledge and alter a male-centred status quo, the subjugation of women's humanity will persist. As O'Connell emphasises:

'It is more urgent than ever that all women have the space and opportunity to become politically active and raise their voices and views and shape the future'.<sup>252</sup>

The author has provided CRC with a list of suggestions for GCM to start practically implementing HRE, annexed and marked Annexure 4. However, professional educational and gender experts need to be appointed by

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<sup>252</sup> Ibid at 179.

government to develop a formal curriculum which is geared towards advancing gender equality. CRC and the GCM members should be active stakeholders in this curriculum design process.

The GCM should also be extended to white and privileged girls in order to foster greater integration and solidarity amongst girls from different racial and socio-economic groups. Boys and men also need to be active participants in advancing the GCM's prerogatives.

The creativity in addressing the issue of sanitation demonstrates that the GCM has the potential to develop all kinds of creative responses to problems facing girls and women. The GCM's various initiatives and widespread membership base could make it a major catalyst in curtailing sexual gender-based violence against women and **securing a better future**.

## **VI: CONCLUSION**

In South Africa, 110 rapes on average are reported each day. Although official SAPS statistics do not reflect how many rape victims are women and girls, we know that the vast majority are female. As disturbing as the rate of known incidents of sexual gender-based violence against women is, it is equally disturbing that South African society is generally numb to hearing these statistics and is not pressing government to implement and monitor calculated steps to eradicate the root causes of this epidemic. Furthermore, it is not as if said root causes of sexual gender-based violence are unknown. It is well-recognised that gender inequality, patriarchy and toxic masculinity are intrinsically linked to sexual gender-based violence. Unfortunately, gender inequality is frequently sheltered from critique by religion and culture, when this would no longer be an acceptable excuse for discrimination on the basis of race. Additionally, the invisibility of women in taught history perpetuates the idea that women have contributed less to society and are less influential than men. These are damning influences for young girls and boys as they fuel notions of male superiority and female inferiority.

At all levels of the legal system, international, regional and national, it is recognised that sexual gender-based violence stems from a social problem linked to the power dynamics between genders. Thus, the advancement of gender equality is of the utmost importance. Although CEDAW initially failed to stipulate a provision recognising violence against women, this was rectified in General Recommendations Nos. 12, 19 and 35 of the CEDAW Committee, as well as DEVAW and the Beijing Declaration and Platform for Action. At the regional level, like CEDAW, the African Charter, does not have a specific provision dedicated to eliminating violence against women, but it does prohibit harmful and violent religious or cultural practices against women and girls and does not advocate patriarchal familial structures. The Maputo Protocol and ACHPR Sexual Violence Guidelines of 2017 stipulate that appropriate measures should be adopted to protect women from all forms of violence, particularly sexual violence, and to ensure the protection of each woman's dignity. At the national level, the Constitution affords women and girls the rights to equality and non-discrimination, human dignity and freedom and security of the person. Legislation such as SORMA and the Domestic Violence Act comprehensively describe the sexual violence against which women and girls need to be protected.

Not only are the root causes for sexual gender-based violence recognised in law, so is a viable solution to deter its pervasiveness, namely HRE. The aforementioned international and regional legal documents recognise that HRE is needed to combat sex stereotyping and prejudice against women and girls. General Recommendation No. 36 of the CEDAW Committee specifically provides that educational curricula, textbooks and teaching materials should be reviewed and amended as necessary so as to 'promote more balanced, accurate, healthy and positive projections of the images and voices of women and girls.' HRE is also promoted through the UDHR, Child Convention and General Comments of the Child Committee. Furthermore, when the Constitutional Court is presented with an opportunity to pronounce on the content of the right to basic education, it could draw on international law to conclude that HRE should form an integral part of basic education and should not be thought of as a 'cosmetic afterthought'.

It should be kept in mind that the concept of HRE is not new to South Africa. PE was used as a tool in the resistance against the racial discrimination during apartheid. Additionally, the introduction of the subject, Life Orientation, in schools as well as GEM and BEM clubs, was intended to advance non-discrimination and facilitate transformation of the post-apartheid generation. However, it seems from recent university protest action against institutionalised racism and sexism, that these initiatives were not as successful as initially hoped and need to be re-worked.

The potential for HRE to advance gender equality effectively is demonstrated through the CRC's GCM. The GCM provides a platform for girls from different backgrounds to unite and contemplate ways to address problems facing girls in their communities. The current focus is on the provision of reusable sanitary pads to girls, in light of government's failure to address this issue. If the same ingenuity could be applied to shed light on and combat sexual gender-based violence against women, with the promotion of gender equality, the GCM could achieve powerful social change in South Africa. The GCM would be even more effective if it received a formal curriculum, with input from gender and educational experts, and if this curriculum was disseminated to schools, both public and private, across South Africa. This would require the buy-in from and financial support of government in order to be successful, especially given the financial difficulties which many NGOs are facing.

Progressive legislation which enshrines equality and non-discrimination and prohibits sexual gender-based violence against women and girls will only be realised fully when all citizens regard legal ideals as moral ideals, which are legitimate and worthy of respect. This can be achieved through HRE and advancing the GCM model.

**ANNEXURE 1****CRC Archives**

1. Brief History of the Children's Resource Centre and The Children's Movement, 2004
2. Launch of the Girl Child Organisation, 2003
3. Constitution of the of the Girl Child Organisation
4. GCM Launch document, 2006
5. Various copies of 'Soul Sista': March 2006, May 2006, June/July 2006, September/December 2007, May 2008, March – September 2016
6. Various copies of the 'Voice of the Children' (2010, 2011 and 2012) containing articles and pictures of the GCM
7. GCM National Coordinators and Training – Implementation Plan and Work Strategy
8. GCM Social Norms Report
9. National Girl Child Movement Report August – October 2009: What's keeping violence against women alive?
10. Budlender, D. 'Evaluation of the Girl Child Movement, South Africa' 2014
11. GCM Annual Reports 2007 - 2015
12. GCM Brochure
13. GCM Strategic Work Plan
14. GCM Structure
15. 'Join the GCO' Pamphlet
16. 'Call to 10 Million Girls' Poster
17. Power of 10 Million Girls Campaign Vision Document
18. Video and Audio Clips:
  - 18.1. Girl Child Campaign 1997
  - 18.2. GCM Launch 2006
  - 18.3. National GCM Launch Day 1 & 2
  - 18.4. GCM Radio Programme
  - 18.5. GCM Music Video
  - 18.6. GCM Workshop 3-5 June 2016

## ANNEXURE 2.1



## GIRL CHILD MOVEMENT – TRAINERS OF TRAINEES PROGRAMME



The outline of the program : Friday , 03 June - Sunday , 05 June 2016

Date	Time Frame	Activity	Purpose
Day 1 : Friday	6 pm – 8 pm	Arrival & Registration , Snacks	To check in and sign register for participation. Enjoy snacks together.
	8 pm – 9 pm	Introduction (Ice breakers ) Purpose of the workshop	Get to know each other , have fun and built friendships. To have a clear understanding of program
	9 pm – 10 pm	GCM History & Structure	To know where we coming from and where we going to ....
	10 pm – 11 pm	House Rules Lights out / Sleep	To ensure a peacefull and cooperative environment To have a good night rest for following day activities
Day 2: Saturday	7 am – 8 am	Rise and Shine / Wash & Dress Breakfast	Prepare for day's participation For concentration "cannot teach a hungry child"
	8 am – 9 am	Registration & check in	Sign Register and share feelings
	9 am – 10 am	Children's Movement – Understanding the Methodology	Participants to understand our Methodology
	10 am – 11 am	Tea break & Ice breakers	Enjoy Eating together
	11 am – 13 pm	Group work – creating and designing activity for broader groups : Group 1 : GCM Powerpoint Presentation Group 2 : Teenage Pregnancy / Reproductive Health Awareness Group 3 : Body Development /Personal Hygiene / Menstruation Group 4 : Setting up of Cooperatives / Sanitary Towel Campaing	Smaller groups working together to creating and design activity to implement with broader group using various methodologies
	1 pm – 2 pm	Lunch Time	Enjoy Eating together



## GIRL CHILD MOVEMENT – TRAINERS OF TRAINEES PROGRAMME



	2 pm - 6 pm	Report back on designed activity to broader group	To create an environment for all participants to be actively involve and learn from each other
	6 pm – 7 pm	Supper Time	Enjoy Eating together
	8 pm – 10 pm	Introduceing the Circle of Sisterhood	To create a trust environment by sharing feelings
Day : 3 Sunday	7 am – 9 am	Rise and Shine/Wash & Dress Breakfast	Enjoy eating together
	9 am – 10 am	Way forward	Area groups – To understand decentralised structures and role of Trainers
	10 am – 11 pm	Evaluation , Thanks & Closing	Evaluate weekend workshop / Closing

## ANNEXURE 2.2

<b>Time</b>	<b>Topic</b>	<b>Presenter</b>
09h00 – 10h00	Register	Trainers
10h00 – 10h15	Introduction and Welcome	Organiser
10h15 – 10h45	Opening Address & Purpose of Conference	Chairperson
10h45 – 11h15	Brief Overview of GCM - History	Deputy Chairperson
11h15 – 12h00	National GCM Report 2017	
12h00 - 12h15	Tea Break	
12h15 - 12h45	Concept Note on Re-usable pads – Drama	GCM Team
12h45 – 13h00	GCM - Declaration	Chairperson
13h00 – 14h00	Lunch Break	
14h00 – 14h15	Concept on GCM National Co-operative	Treasurer
	Brief History	Additional Member
14h15 – 14h15	Demonstration – Feminine Hygiene Kit	Additional Member
14h15 – 14h25	Call for Girls	Assistant Secretary
14h25 – 14h40	Conducting HIV/AIDS Ceremony	Additional Member
14h40 – 14h45	Song	Trainer of Trainees
14h45 – 15h00	Spiritual Dance Item	PPC – GCM
15h00 – 15h15	Word of Thanks & Closing	Organiser
15h15 – 15h30	National GCM – Exhibition History & Sewing	GCM National Team

(Note: Presenters have been anonymised)

**ANNEXURE 3****Interview Questions****Ice-Breaker Questions**

1. How long have you been working for Children's Resource Centre?
2. How long have you been facilitating the Girl Child Movement (GCM)?
3. Can you describe the GCM for me in a few words?

**Substantive Research Questions**

4. Do you think the girl children in the GCM know about the Constitution, the Bill of Rights and/or human rights in general?

*Follow-up Questions*

- If they do, where do you think they learnt about these (parents/ school/ the GCM/ news/ other)?

*Or*

- If they don't know about these things, should they?

5. Do you think that the GCM teaches girl children about their human rights?

*Follow-up Questions*

- If so, which human rights?

*Or*

- If not, what does the GCM teach them?

6. Can you describe the following terms and phrases in your own words/ understanding?

- 'gender equality'
- 'non-discrimination'
- 'human dignity'
- 'women's empowerment'

7. Do you find it difficult to explain these concepts (in question 6) to girl children? If so, what is difficult?

8. As you have a wide variety of ages and a mixture of Xhosa, Afrikaans and English members of the GCM, is it difficult to explain these concepts (in question 6) to everyone? Do you think the concepts are being genuinely understood?

9. From conversations you have been exposed to, have some girl children accepted sexist practices and worldviews as normal (For example: a women's role is a primary care-taker and home-maker)?

10. How do you encourage thinking and conversations about equality and non-discrimination?

**Forward-looking Questions**

11. Why should *girl* children in particular know about the concepts in question 6? Should boys also be taught about these concepts?
12. How would you personally feel about having a formal curriculum or training session about human rights for facilitators?

**ANNEXURE 4****IMPLEMENTATION OF HRE THROUGH THE GCM**

There are several ways in which the GCM could practically implement HRE which promotes gender equality:

- Research and make short presentations on powerful women and girls in history, describing their contributions to society and how we can carry forward their ideals and vision. Examples include:

Young women making waves at the moment:

- Greta Thunberg: 16-year-old Swedish environmental activist on climate change
- Malala Yousafzai: 22-year-old Pakistani activist for female education and the youngest Nobel Prize laureate
- Rupi Kaur: 26-year-old Indian-born Canadian poet and performer
- Emma Watson: 29-year-old English actress and UN Women Goodwill Ambassador, who led the #HeForShe campaign, calling men to advocate for gender equality

Female change-makers in history:

- Harriet Tubman: American abolitionist and political activist
- Emmeline Pankhurst: British political activist and organiser of the British suffragette movement
- Marie Curie: Polish physicist and chemist who conducted pioneering research on radioactivity
- Anne Frank: German-born Dutch-Jewish diarist during World War II
- Rosa Parks: American activist in the civil rights movement
- Maya Angelou: American poet, singer, memoirist and civil rights activist

Inspirational Female South Africans:

- Charlotte Maxeke: religious leader, social worker and political activist
- Winnie Madikizela-Mandela: anti-apartheid activist and politician
- Helen Joseph: anti-apartheid activist
- Miriam Makeba: singer, songwriter, actress, UN Goodwill Ambassador and civil rights activist
- Yvonne Mokgoro: first black female judge of the Constitutional Court of South Africa

- Kate O'Regan: first white female judge of the Constitutional Court of South Africa
  - Sisi Khampepe: judge of the Constitutional Court of South Africa
  - Naledi Pandor: academic, educationist, lecturer and politician, currently serving as the Minister of International Relations and Cooperation
  - Phumzile Mlambo-Ngcuka: Former Deputy President of South Africa (first female to hold this position) and Executive Director of UN Women with the rank of Under-Secretary-General of the United Nations
  - Thulisile Madonsela: former Public Protector of South Africa
  - Natalie du Toit: swimmer, Paralympian gold medalist, first female amputee to ever qualify for Olympic competition against able-bodied swimmers
  - Caster Semenya: middle-distance runner and Olympic gold medalist
  - Pumla Dineo Gqola: author and professor of Literature, Media and Gender Studies at WITS
- Review, perform and discuss feminist literary pieces, such as:
    - 'We Should All Be Feminists' by Chimamanda Ngozi Adichie
    - 'Phenomenal Women' by Maya Angelou
    - Poems from 'Milk and Honey' and 'The Sun and her Flowers' by Rupi Kaur
    - Passages from 'I Am Malala: The Girl Who Stood Up for Education and Was Shot by the Taliban' by Malala Yousafzai, co-written with Christina Lamb
  - Utilise HRE resources designed by educational resource publishers such as Twinkl Educational Publishing. CRC could consider subscribing to Twinkl for minimal monthly fee to find human-rights-based worksheets on a regular basis. Useful Twinkl resources for HRE include:
    - UDHR PowerPoint presentation;
    - Global Goals PowerPoint presentation and Global Goals summary cards;
    - Challenging Stereotypes PowerPoint presentation;
    - Prejudice and Discrimination PowerPoint presentation;
    - Malala Yousafzai PowerPoint presentation;
    - UDHR worksheet;
    - 'Children's Rights Diamond Ranking' worksheet;
    - 'Rights and Responsibilities' worksheet;
    - Human Rights Dictionary activity;

- Gender Equality feedback grid;
  - Gender Equality word-search;
  - 'Freedom' acrostic poem worksheet;
  - Rights Violations worksheet;
  - Prejudice and Discrimination table activity;
  - Prejudice and Discrimination Word-Definition Matching activity;
  - Prejudice and Discrimination Role-play activity; and
  - Human Rights Illustrated Mind-map activity.
- When completing the various worksheets and activities, the girls should also bear in mind the following rights in the South African Constitution, and consider how these relate to women and girls, as well as, ways in which these rights are infringed and how they can be achieved:
    - Section 9: Equality
    - Section 10: Dignity
    - Section 12: Freedom and security of the person
    - Section 15: Freedom of religion, belief and opinion
    - Section 27: Health care, food, water and social security
    - Section 28: Children
    - Section 29: Education
- Learn about the UN 2030 Agenda for Sustainable Development that includes 17 Sustainable Development Goals (SDGs).
    - Consider how we could practically help in achieving the SDGs, especially, SDG No.5: Gender Equality.
    - Design the front page of a newspaper for the year 2030 and put down the headlines we would like to be reading about then
- Discuss and debate stereotypes about women and girls, the damage they can cause, why they are wrong and how we can challenge them. These stereotypes could include:
    - 'It is a woman's job to cook, clean and look after the children'
    - 'Women are not as good as men at sport, so men's sport is on TV more often'

- 'Women get raped because they go to unsafe places and because of how they dress'
- 'Women are emotional and irrational, so do not make good leaders'
- 'All women should wear make-up to look prettier'
  
- Discuss ways in which the community could be made safer for women and girls, for example: better lighting, more police presence, making emergency numbers known to everyone, self-defence classes, encouraging men and boys as well as other women to keep an eye out if someone is in danger or distress.
  
- Learn about what to do if you or anyone you know has been raped or sexually assaulted. The website for Rape Crisis Centre provides helpful advice, such as:

What to do if you have been raped:

1. Go to a safe place
2. Tell the first person you see and trust about what has happened
3. Go straight to a hospital or to a doctor to get the medical attention
4. Receive medical attention within 72 hours
5. You can ask for emergency contraception to stop you from getting pregnant
6. You have a right to report to the police at any time

How to report rape at a Police Station

1. Go to the police station nearest to where the rape took place. No survivor may be turned away simply because the rape took place a long time ago or was committed in the station area of another police station
  2. You can ask to be seen in a private room at the police station and to give your statement to a female police officer
  3. A brief statement should be taken first and translated into your own language. If you are not in a state to have a full statement taken, the investigating officer will make an appointment with you for the following day or within 36 hours
  4. You have a right to be treated with respect for your dignity and to complain if this does not happen
  5. The police will take you to a medical facility for medical or forensic treatment
- 
- Come up with a strategy to help boy children to understand the difficulties and challenges which women and girls face and to encourage them to become allies and get involved in standing up for women and girls' rights. For example,

inviting boys to informative presentations, asking them to make sure their friends do not bully or harass girls with their words or their fists, creating a space for boys to ask questions and give feedback.

- Use the international campaign, '16 Days of Activism against Gender-based Violence', between 25 November and 10 December, to join the fight, raise awareness and get governmental buy-in to address gender-based violence. Preparation for the campaign can include placard-making, drafting a memorandum from the GCM girls to hand up to government officials at protests, coming up with a new protest song and creating social media awareness about the campaign.

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