

# “WE WILL NOT BE SILENCED”

A THREE-PRONGED JUSTICE APPROACH TO SEXUAL OFFENCES  
AND RAPE CULTURE AT RHODES UNIVERSITY/UCKAR



**RHODES UNIVERSITY**  
*Where leaders learn*

**SEXUAL VIOLENCE TASK TEAM**  
**DECEMBER 2016**



“WE WILL NOT BE SILENCED”<sup>1</sup>:  
A THREE-PRONGED JUSTICE  
APPROACH TO SEXUAL OFFENCES  
AND RAPE CULTURE  
AT RHODES UNIVERSITY/UCKAR<sup>2</sup>

SEXUAL VIOLENCE TASK TEAM  
DECEMBER 2016

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<sup>1</sup> This was a slogan used during the #RURReferenceList protests. As with all slogans, there are multiple possible meanings, for example that women will not be silenced by: (1) the stigma surrounding rape; (2) the gender dynamics implicit in sexual violence; or (3) the injustices surrounding low conviction rates. It also refers to the Silent Protest, which used silence as a metaphor to highlight the injustices perpetrated around sexual violence, but which, it was argued, did little to fundamentally shift the dynamics underpinning sexual violence.

<sup>2</sup> The name of the University is currently under review. Given that the outcome of this process is not yet finalised, we use both signifiers: Rhodes University and the University Currently Known as Rhodes (UCKAR) in the title of this document. In the document itself we refer to the University.



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# NOTE ON TERMS USED

There is some debate about how to describe a person who has experienced sexual violence, and/or who lays a charge of sexual violence. The term 'victim/survivor' is frequently used in academic and/or political debates; the inadequacy of a single term (victim or survivor) is acknowledged in this usage, as both the terms denote particular meanings concerning the person's response to the sexual violence. Neither or both may capture the complexities of any particular person's responses. In legal circles, the person is described as a complainant, and the person accused as the alleged perpetrator/offender or the accused (or offender if proved guilty). We have opted for this more neutral language rather than victim or survivor, although we recognise that this potentially dilutes the political implications of the terms.

There is some question as to which term to use to denote all sexual offences. While rape and sexual assault are defined in terms of criminal law, sexual harassment is only used in the labour or educational context. Some University policies include rape and sexual assault in their definition of sexual harassment, making sexual harassment the overarching term. This could have disadvantages, as some may view sexual harassment as applying only to non-contact interactions such as stalking, flashing, or inappropriate remarks. The term sexual offences, while providing a more complete catch-all term, carries with it the implications of legalistic and prosecutorial processes, thereby sidestepping the political issue of the gender-based violence contained in all sexual offences. Gender activists argue that all forms of sexual offences are violent, and that non-contact sexual harassment may be very traumatic for the recipient thereof. However, while the term sexual violence captures the notion of violation contained in sexual offences, some may view sexual violence as denoting contact sexual offences, thereby glossing over non-contact forms of sexual violence. With these complexities in mind, and given the fact that multiple people contributed to the writing of this document, we have not attempted to streamline the use of terms to denote sexual offences in this document. Sexual harassment, sexual violence, and sexual offences are all used in this document to denote the general category of sexual offences. Where we wish to differentiate between forms we talk of contact and non-contact.

One of the major recommendations of the SVTT is for the establishment of a Sexual Harassment Office. Given the complexities of terms, as indicated above, we also recommend that the name of this Office be thought through in terms of the political implications of particular names. Without wishing to take a particular stance on this, we have opted to call this office the Sexual Harassment Office throughout for the sake of clarity and consistency.

# LIST OF ACRONYMS

ACM	- Association for Computing Machinery
AIS	- Association for Information Systems
AOP	- Academic Orientation Programme
BBS	- Bachelor of Business Science
BCom	- Bachelor of Commerce
BEco	- Bachelor of Economics
CFA	- Chartered Financial Analyst
CHERTL	- Centre for Higher Education Research, Teaching and Learning
CIMA	- Chartered Institute of Management Accountants
CJS	- Criminal Justice System
CLA 101	- Classics 101 (Semesterised Course/Credit)
CPF	- Community Policing Forum
CPU	- Campus Protection Unit
CS1	- Computer Science 1 (Credit)
CSO's	- Civil Society Organisations
DP	- Duly Performed
DSA	- Directorate of Student Affairs
DVC	- Deputy Vice-Chancellor
E&IC	- (Office of) Equity and Institutional Culture
ECCF	- The Eastern Cape Communication Forum
GAP	- The Gender Action Project
GASP	- The Gender and Sex Project
GBF	- Grahamstown Business Forum
GBH	- Gender-Based Harm
GenAct	- Gender Action Forum
GEO	- Gender Equity Office
HEAIDS	- The Higher Education and Training HIV/AIDS Programme
HoDs	- Heads of Departments
HR	- Human Resources

ISACA	- Institute and the Information Systems Audit and Control Association
LOA	- Leave of Absence
LRA	- Labour Relations Act
MBMC	- My Body My Choice (Campaign)
NPA	- National Prosecuting Authority
NSFAS	- National Student Financial Aid Scheme
O-Week	- Orientation Week
PGDip (HE)	- Post Graduate Diploma in Higher Education
QUORL	- Quality of Residence Life (Survey)
RESTORE	- Responsibility and Equity for Sexual Transgressions Offering Restorative Experience (Programme)
RU	- Rhodes University
SA	- South Africa
SABPP	- South African Board for People Practice
SAICA	- South African Institute of Chartered Accountants
SAPS	- South African Police Service
SDC	- Student Disciplinary Code
SDI	- Sustained Dialogue Institute
SGBV	- Sexual and Gender-Based Violence
SRC	- Student Representative Council
SRJC	- The National Sexual and Reproductive Justice Coalition
SVTT	- Sexual Violence Task Team
UCKAR	- University Currently Known As Rhodes University
UCT	- University of Cape Town
UJ	- University of Johannesburg
UWC	- University of the Western Cape
VC	- Vice-Chancellor
VEP	- Victim Empowerment Forum
Wits	- University of Witwatersrand





# EXECUTIVE SUMMARY

In April 2016, a Sexual Violence Task Team (SVTT) was set up to explore how a counter culture to rape culture may be implemented at the University. The task team and its terms of reference were set up in a participatory process outlined in Appendix 1 of this report. Six major issues were identified for consideration: creation of safe spaces for complainants; review of policies and procedures; curriculum issues; systemic issues; local and national dialogues; and monitoring and evaluation of implementation of recommendations.

The SVTT consisted of various sub task teams and a steering committee. Each sub task team produced a report that was consolidated by the steering committee. Names of the members of the task team are included in Appendix 2. Draft reports were sent out to all members of the University community for comment. Comments were incorporated or responded to. In addition, the advice of external legal experts from Wits University and the University of Cape Town was sought, and discussions were held with Advocate Turner of the National Prosecuting Authority (NPA).

This executive summary provides an overview of the recommendations emanating from the SVTT. Details concerning how the SVTT arrived at these recommendations are provided in the body of this report.

## OVERARCHING RECOMMENDATIONS

The overarching recommendations of the SVTT are:

1. The University should adopt a three-pronged justice approach to dealing with sexual harassment at the University. The limitation of relying solely on a retributive form of justice has been exposed by the #RUReferenceList protests. It is, therefore, recommended that the University adopt a conceptual approach that draws simultaneously from the principles of:
  - a. retributive justice (support for people who opt to use the criminal justice system; internal disciplinary procedures);
  - b. remediation, mediation, and restorative justice (processes whereby harms are acknowledged and amends made);



Manager of the Sexual Harassment Office in conjunction with relevant people in other divisions (notably Human Resources and Student Affairs), but, if there are delays in appointment, by a person designated to do so.

6. Summarised, easy to read documents of the policies should be easily accessible both electronically and in hard copy in spaces that students frequent (e.g. residences, library). As a result of the #RUReferenceList protests in April, a RUConnected Resource was created as a central repository for various pieces of information and resources. The RUConnected site should be further developed with not only resources and information, but also ideas and conversations about sexual violence and how to deal with these issues in various contexts within the University, including residences and the classroom.
7. A network of support for complainants should be created, including support advocacy officers/peers: staff members and students from across the University (including all grades of staff), who volunteer to be trained and to support complainants as necessary. It is recommended that reporting be the purview of the Manager of Sexual Harassment Office, who will be thoroughly *au fait* with all procedures relating to the reporting of sexual offences. Complainants should be offered a choice of support advocacy officers/peers once they have reported their complaint (either online – see recommendation below – or in person). These support advocates would be well versed in the policies and procedures, both internal and external, and will be trained in basic listening and containment skills. They will provide informational support, particularly in terms of the various options available and the importance of retaining evidence in the case of prosecution. Importantly, they would provide emotional support to a complainant and would walk them through the various phases of the process decided upon. These support advocates are not legal representatives or counsellors, but rather people who are “on the side” of the complainant, who can see the complainant through whichever avenue s/he chooses (lawyers and counsellors may, of course, volunteer to be support advocates). There should be a range of support advocates with varying demographics available in order for students to select a support advocate with whom they feel most able to talk about sexual violations. Support advocates would be required to take an oath of confidentiality tailored to the requirements of the position, and should receive regular debriefing from a qualified professional. They should provide regular updates to the Manager of the Sexual Harassment Office. These support advocacy officers/peers are not the same as the supporting or reporting officers referred to in the current policies. They will not be tasked with receiving the complaint or ensuring that the complaint is followed up through the system. In addition, their function is to work with specific complainants, rather than doing outreach or preventative work that the peer supporters referred to in Recommendation 42 (see below) would do.
8. Reporting officers in the Sexual Harassment Office should be trained to take proper statements under oath and follow correct procedures in terms of obtaining medical examinations, even if the complainant does not wish to proceed with the case. Apart from the complainant’s own health needs, following strict and correct procedures could help in opening a case docket and in the case holding up in court, should the complainant decide to proceed through the Criminal Justice System (CJS) at a later stage. If a complainant wishes to be examined at a state hospital, then a case docket is needed.
9. There should be various options open to complainants who lay a complaint within the University, as follows (each of these is outlined in more detail in the body of the report):

- a. Strong support for the complainant to lay a charge through the CJS should that be her/his decision (nobody should be coerced into this option though);
  - b. Internal disciplinary procedures in which sanctions are applied for the misconduct of sexual violence/harassment if proved on balance of probabilities;
  - c. Restorative Justice Procedure in which a restorative justice conference results in an acknowledgement of harm and the making of amends;
  - d. Mediation between parties with a trained mediator facilitating the process (it is recommended that a clear distinction be made between mediation and restorative justice; it may be inappropriate for more serious cases and cases where there is a large power differential to be resolved in this manner as mediation implies resolution of a conflict rather than a form of justice);
  - e. Remedial Discussions where the complainant does not wish to pursue any of the above, but the University feels that the complaint is of a sufficiently severe nature or there is evidence that the alleged perpetrator has offended more than once (recommended procedures for this are contained in the body of the report).
- 10.** Clear structures of accountability will be necessary for the proposed Sexual Harassment Office. The Gender Action Forum (GenAct) should oversee the implementation of all of the task team mandates through the Sexual Harassment Office, taking into cognisance the recommendations made in all of the task team reports. Regular reports should serve at GenAct and the Equity and Institutional Culture Committee meetings. Where necessary, these reports should also serve at meetings of Senex and Senate. These reports should include a formal, anonymised record of all reports of sexual harassment. These reports should be made publicly available to the University community.

## RETRIBUTIVE JUSTICE

There are two forms of retributive justice open to a University student/staff complainant: the criminal justice (CJS) system and the University disciplinary procedures. It must be noted that these are very different and parallel systems: the CJS system punishes crimes and needs to prove that a crime is committed beyond a reasonable doubt for conviction. The internal disciplinary system punishes offences that contravene the agreed upon rules laid out by the University. Proof, in this instance, is on a civil rather than criminal standard – on a balance of probabilities/preponderance of evidence. Various possible avenues should all be made available, as appropriate, for the exercise of retributive justice:

- a. Criminal justice system only: the complainant decides to lay a criminal charge without laying a formal complaint within the University system.
- b. Criminal justice system followed by disciplinary system: complainant lays a charge with the criminal justice system, which, depending on the outcome of this process is followed by a disciplinary hearing at the University. The Student Disciplinary Code provides that “[a] student who is convicted of any crime in a court of law shall be rebuttably presumed to have committed the crime(s) of which they have been found guilty”. However, if they are not found guilty of the crime, but there is sufficient evidence for an internal charge of misconduct, a disciplinary hearing may proceed, provided that it is noted that while certain evidence (such as a medical report) used in criminal proceedings can be used

as evidence, any testimony given in the criminal prosecution cannot be reused. Testimony would have to be delivered anew.

- c. Criminal justice system and disciplinary system are set in motion simultaneously. The two streams of prosecution can run concurrently and do not interfere with one another. They carry different burdens of proof from one another and they are done via two different and separate channels. Furthermore, the verdict in one does not affect the verdict in the other, and the charges are not identical (It has been suggested by members of the Law Faculty that this option is not possible. Our response is contained in the body of the report and in Appendices 3 and 4; we recommend that the prosecutors and Manager of the proposed Sexual Harassment Office liaise directly with the National Prosecuting Authority when charges are laid simultaneously through both the CJS and the internal disciplinary system).
- d. Complainant lays a disciplinary charge only.

In terms of (a) above, Advocate Turner of the National Prosecuting Authority indicates that the police investigation takes about six weeks. She indicates that the NPA will communicate with the University their decision about whether to proceed with prosecution. She recommends that the University consider issuing no contact orders and/or suspension orders on the charge being laid with the CJS. If the prosecution does not proceed, the NPA will make any complainant statements and medical reports available to the University in case they wish to proceed with a disciplinary case, as in (b) above. She questions the word “rebuttably” noted in (c) above, as this seems to suggest that the respondent may rebut the court’s judgement. This word may need to be reviewed in the context of the disciplinary codes.

### The criminal justice system

- 11. Mechanisms of support for the administration of external retributive justice need to be established. These include, but are not limited to:
  - a. Providing information on the processes to be followed for the magistrate’s court to issue a protection order; support in navigating such processes should the complainant opt for this;
  - b. Assisting the complainant in obtaining legal counsel;
  - c. Liaison with the National Prosecuting Authority regarding the case, including information about the possibility of no contact and suspension orders on the basis of the complaint being laid through the CJS;
  - d. Advocacy support officers or peers providing support (e.g. information on processes; accompanying complainant to court etc.).

### Formal internal disciplinary procedures

- 12. The contradictions between the various policies for internal disciplinary procedures need to be ironed out. These include: supporting officers referred to in one policy and reporting officers in another with no clarity on the difference between them (however, see our recommendation regarding this); no-contact orders being issued by the VC in one policy and by the Dean of Students in another; the Fairness Forum being referred to in one policy but not in another (see later recommendation, however); the Sexual Offences Disciplinary Board being referred to in one policy but not in another.

13. A number of processes that are referred to in the policies are no longer being implemented, and there are a number of inaccuracies. For example, reporting officers are still referred to although these positions have been eliminated; the Dean of Students, and student and staff co-ordinating officers are referred to although these positions no longer exist. These inaccuracies need to be attended to in the writing of the comprehensive Sexual Offences Policy recommended above, and in the revisions of other policies.
14. The definitions of rape, sexual assault, and sexual harassment must be constructed in a manner that is clear, well-thought out and not contradictory, and must be in line with national legislation; these definitions must highlight that any form of sexual harassment or violence is deemed as **serious** misconduct, and is an abuse of power.
15. Future policies and guidelines should acknowledge that offenders may be in positions of authority that provide them with added responsibility in terms of moral behaviour. In addition to general sanctions, guidelines should explicitly address what happens when, for example:
  - a. An alleged student perpetrator is in an elevated position of power because they are a tutor, mentor, house committee member, sub-warden, SRC representative (Suspension from this position while the case is pending and removal from it if found guilty should form part of the list of possible sanctions);
  - b. An alleged perpetrator is in an elevated position of power – e.g. a staff member abuses a student, a senior staff member abuses a junior staff member (It is recommended that stiffer penalties should accrue in such instances, in comparison to cases where such differentials are not in place);
  - c. There are particular power relations between the parties that suggest that, in addition to the gendered nature of the abuse, the action could be viewed as a hate crime in terms of race, class, ability, religion, or sexual orientation (Stiffer penalties than would accrue in the absence of the hate crime are recommended).

It should be acknowledged that the determination of power differentials in relationships is, in itself, an operation of power. It is recommended that the view of complainant is explicitly elicited in this regard, which may reveal often hidden dimensions of power differentials (e.g. affiliations, familial associations, past links etc. in addition to questions of race, class, ability, religion, sexual orientation mentioned above).

16. In line the Criminal Law (Sentencing) Amendment Act 38 of 2007 that “regulate[s] the imposition of discretionary minimum sentences for certain serious offences”, guidelines for sanctions for particular kinds of offences should be outlined in the policy and linked to various levels of discipline and/or levels of offences subject to the Zinn Triad - sanction requires consideration of three factors viz. the crime (the offence), the criminal (the offender), and the interests of society (the interests of the University community). There should therefore be a prescribed sanction of exclusion and dismissal for rape and sexual assault. In line with the Sexual Offences and Related Matters Amendment Act 32 of 2007, the following should also be considered: (a) whether the alleged perpetrator (i) committed the offence with the intent to gain financially, or receive any favour, benefit, reward, compensation or any other advantage; or (ii) gained financially, or received any favour, benefit, reward, compensation or any other advantage; (b) if exclusion is not the sanction, then if practicable and if the convicted person demonstrates the potential to benefit from such, the sanction should include attendance of, and participation in, treatment and/or courses related to sexualities, gender, and violence. The overarching Sexual Offences Policy and all disciplinary codes should include definitions of all types of sexual offences that are subject to discipline.



- 17.** The Student Disciplinary Code currently states that where “a student has been acquitted due to lack of mental capacity, the student may not remain at the University or return to the University without undergoing a full psychiatric assessment, the findings of which must confirm that the student is of sound mind.” Remembering that the University must undertake to ensure that all students and staff members are protected from harm, and that psychiatric assessments are based on clinical judgement, it is recommended that this be changed to: “where a student has been acquitted due to lack of mental capacity, the student may not remain at the University or return to the University without undergoing a full psychiatric or clinical psychological assessment by a person designated by the University. The student him/herself may supplement this assessment with a privately obtained one. The assessment must confirm that the student is stable, unlikely to be a harm to others or self, and must contain information on the treatment that s/he has undergone or is undergoing. Mechanisms of ongoing treatment and compliance with this treatment while on campus should be included”.
- 18.** In the case of students, sexual offences are heard by a Disciplinary Board for Sexual Offences, a panel of three people appointed by the Vice-Chancellor: a Proctor, a member of academic staff in the Faculty of Law (including the Rhodes University Law Clinic), and a member of the Senate Disciplinary Committee. It is recommended that the Senate Disciplinary Committee member should have a background in gender-based violence and a sensitivity to psychological issues. Should no such person be available on the Senate Disciplinary Committee, the Vice Chancellor should approach another staff member of the University community with the requisite background. In addition, it is recommended that at least two of the members are of the same gender as the complainant. Where the complaint emanates from the Law Faculty itself, no person internal to the Law Faculty should form part of the Disciplinary Board.
- 19.** The decision to prosecute the misconduct of sexual offence is currently determined by the Prosecutor, and the Prosecutor prosecutes on behalf of the University. The complainant has no recourse to other internal retributive justice measures (in external retributive justice, where the National Prosecuting Authority decides to not proceed with charges, individuals have the option of instigating a civil claim). It is recommended that, while the Prosecutor retains the final decision, policy should reflect that the complainant’s wishes must be carefully considered.
- 20.** The policies make provision for Leave of Absence, and no contact and suspension orders, but it is not made explicit that these rights should be emphasized to the complainant. It is recommended that all points of contact with the complainant (including reporting officers located within the Sexual Harassment Office, support advocates, and prosecutors) emphasise the protective measures to which the complainant has access, as well as the procedures that are followed in obtaining these orders.
- 21.** Policies should emphasise the basis on which no contact orders are made and how these orders restrict the person against whom the complaint has been lodged. In the event that a no contact order is issued, various procedures should be put in place: (1) The complainant needs to give permission for relevant people to be notified; (2) the Sexual Harassment Office needs to notify the relevant people (e.g. wardens, HoDs, lecturers) so that arrangements can be made to effect the order (e.g. if the complainant and accused are in the same tutorial group or residence); (3) These relevant people must be informed of the necessity of the no contact order remaining confidential; (4) A copy of the no contact order must be sent to the Campus Protection Unit and the complainant should be alerted to the fact that she may call CPU should the accused breach the no contact order; (5) The limits of what CPU can do in case of their being called in such instances (witnessing the breach; preventing any escalation; warning the accused

of the consequences of breaching a no contact order) should be made clear to the complainant; (6) The accused should be made aware of the consequences of a breach of a no contact order. If someone is convicted of a sexual offence in a court of law, but given a suspended or limited sentence, and they are permitted to return to the University, the complainant should be alerted to this and the possibility of a no contact order discussed with him/her. Clear guidelines should be laid out for official communication of such disciplinary action to all parties concerned in effectively implementing the action. A no contact order without this attendant action is meaningless and amounts to an empty gesture. It must be clear that a no contact order is binding, and that hall wardens, HoDs etc. cannot overturn such an order.

- 22.** It is recommended that the proposed Sexual Offences Policy explicitly states that prosecutors may not discontinue an investigation on the basis of an accused's standing in the University or the wider community, their academic record, or their academic/professional future.
- 23.** The definition of consent contained in the policies should be supplemented to include broad requirements in law (e.g. the capacity to give consent) and to indicate that consent can be withdrawn. Where consent is withdrawn during sexual activity, it is the other party's responsibility to stop. Preventive measures instituted in the University should emphasize the notion of affirmative consent ("yes means yes" rather than "no means no").
- 24.** Further detail on how incidents that occur between staff and students are dealt with is required in all of the policies. In addition, reference to the protocol governing intimate relationships between staff and students needs to be referred to and integrated into all policies.
- 25.** It must be made clear in the Grievance Procedure that staff are entitled to initiate a grievance procedure on the basis of sexual harassment.
- 26.** The various types of sexual offences need to be defined in the Staff Disciplinary Procedure. Currently, there is room for misinterpretation with regards to the disciplinary category of offences. Although sexual offences of any kind are noted in Category C (highest level that results in dismissal), these are not excluded from harassment in Category A (lowest level of offence). Including all sexual offences in Category C may result in complainants not wishing to report more minor cases of sexual harassment, as they do not wish the harsh sanctions attached to Category C offences (i.e. dismissal) to be meted out to the accused. Nevertheless, we feel that sexual harassment of any sort should be seen as a "more serious form of harassment" and should be dealt with under Category B (serious offences). Sexual violence and assault and severe sexual harassment should be dealt with under Category C.
- 27.** The harshest sanction that the University can implement in terms of its internal disciplinary procedures is exclusion for students, and dismissal for staff. In cases of serious sexual violence, charges in the alternative (i.e. a different type of offence) that are sufficient for exclusion/dismissal should be considered. Charges must be framed in terms of what there is a reasonable possibility of proving.
- 28.** The University should employ both internal and external prosecutors. Given the sensitive nature of sexual violence that involves rape or bodily harm, it is recommended that these cases be dealt with by external prosecutors. More minor sexual harassment cases can be dealt with by internal prosecutors.
- 29.** Prosecutors (whether internal or external) should also be conversant with gender and sexuality issues and not just the law. They should have a background in sexual offences law and practice.



- 30.** The policy needs to include the procedures that should be followed in order to obtain a no contact order and suspension order from the Sexual Harassment Office. In addition, the policy should outline the process to be followed in order to obtain a protection order from the magistrate's court.
- 31.** The Policy on Eradicating Unfair Discrimination and Harassment needs revision - as indicated in Recommendation 4(c).
- 32.** The Fairness Forum referred to in the Policy on Eradicating Unfair Discrimination and Harassment is meant to be convened prior to the initiation of disciplinary processes. The exact role of the Fairness Forum is unclear. In one place it is indicated that the Fairness Forum "plays an advisory role" to the University prosecutor. In another, it is stated that the Fairness Forum "shall determine if there is a prima facie evidence to proceed with a disciplinary hearing". It has been reported by the prosecutors that the Fairness Forum does not operate optimally and is an additional hurdle in the process. It is recommended that this process be revisited. Firstly, the notion of a "Fairness Forum" is, in and of itself, problematic, as decisions made in the preliminary process prior to prosecution may not necessarily be based on fairness at all, but rather lack of evidence, wishes of the complainant etc. Secondly, a pre-enquiry phase needs to be efficient. Therefore, it is recommended that a pre-enquiry phase is dealt with in the first instance by a small committee, and only by a broader advisory committee if necessary. It is recommended that the small pre-enquiry committee consists of: one prosecutor, the Manager of the Sexual Harassment Office and one other person from Human Resources, Directorate of Student Affairs, or the Equity and Institutional Culture Office, depending on the nature of the alleged offence. If this committee feels that the case is of such a nature that additional advice would be useful, or if agreement cannot be reached, this committee may call on the larger advisory committee or on external legal advice, including the National Prosecuting Authority. In cases where a pre-enquiry advisory committee is deemed necessary, the policy should provide guidance about the constitution of such a committee. This advisory committee cannot be constituted in the same way as the Fairness Forum as the current policy refers to reporting officers, who no longer exist. It is recommended that there is a balance in terms of gender and that a number of members are sufficiently steeped in the legal aspects as well as gender issues to make reasoned input. In cases pertaining to students, it would be useful if members included the Director of Student Affairs or delegate and SRC representative, and in the case pertaining to staff, a delegated person from HR.
- 33.** The recommended new Sexual Offences Policy needs to refer to the protocol governing intimate relationships between staff and students, as well as procedures to be followed if the complainant is a student and the alleged perpetrator is a staff member or vice versa.

## MEDIATION AND RESTORATIVE JUSTICE

Mediation involves the resolution of conflict between two parties through the facilitation of a trained mediator, while restorative justice is about working through harm and remorse, using a restorative justice process and facilitated by a trained restorative justice officer. In restorative justice no particular sanction is imposed. Rather a process is instituted whereby the accused acknowledges the harm caused, and engages in an agreed upon set of amends. A full explanation of procedures is contained in the body of this document.

- 34.** It is recommended that a clear distinction be made between mediation and restorative justice; it may be inappropriate for more serious cases and cases where there is a large power differential to be resolved

in this manner as mediation implies resolution of a conflict rather than a form of justice. In cases of sexual violence and in cases where the complainant and accused occupy positions that suggest power differentials, restorative justice may be more appropriate.

- 35.** During mediation, it should be made clear that a mediation agreement is binding and that failure to abide by the agreement could result in disciplinary action. In addition, mediation agreements should include provisions that any form of unacceptable behaviour in which a party engaged should not be repeated with other parties. Should this occur, it would constitute a breach of the mediation agreement and could be used in evidence.
- 36.** In restorative justice, rather than concentrating on guilt or a verdict, the primary concern is about harm and remorse. No particular sanction is imposed. Rather a process is instituted whereby the accused acknowledges the harm caused, and engages in an agreed upon set of amends. It is recommended that the RESTORE procedure of a restorative justice conference is followed (this procedure is outlined in the body of the report). It is recommended that strong support be in place so that the complainant is aware that if the restorative justice process is undertaken and guilt is admitted by the accused, this admission would not be helpful to the complainant in a court of law. Having said this, should the restorative process be unsuccessful, the complainant will still be able to pursue a disciplinary or criminal case.
- 37.** Restorative justice has been implemented on a number of college campuses in the United States and in other spaces in Aotearoa/New Zealand, but not in South Africa. It is recommended that funding be sought to bring an expert in this area to the University to provide guidance and training (or alternatively for the Manager of the Sexual Harassment Office to visit sites where the programme is implemented).

## REMEDIAL DISCUSSIONS

- 38.** If the complainant wishes to remain anonymous, or does not wish to pursue any of the mechanisms available to him/her, and if the Sexual Harassment Officer feels that the complaint is of a serious nature, or if multiple complaints have been made about a particular accused without any of the complainants wishing to pursue the matter through formal processes, a process of Remedial Discussions may be suggested by the staff of the Sexual Harassment Office or support advocates. This involves the Manager or another staff member of the Sexual Harassment Office having a discussion with the alleged perpetrator indicating that certain forms of behaviour constitute sexual harassment and violence, and are unacceptable. The alleged perpetrator is provided with a copy of the Sexual Offences Policy. The discussion should proceed without revealing the identity of the complainant or any aspects of the complaint from which the alleged perpetrator could identify the complainant. Procedures for instituting such a discussion in order to minimise harm to the complainant are outlined in the body of the document. The institution of remedial discussions serves the purpose of not only highlighting problematic behaviour to the accused, but also communicates the University's zero tolerance of any forms of sexual harassment.

## REPARATIVE JUSTICE

Reparative justice is associated with restitution or recompense for an injustice: when a person or community's rights, and his/her/their interests are harmed, then this injustice needs to be remedied. Reparations are generally considered at a systemic level. The SVTT understand reparations as consisting of strong support

for people who have experienced sexual violence as well as mechanisms that counter the conditions that enable the occurrence of sexual violence. The SVTT considered the following as resources and processes through which reparative justice could be effected institutionally: the provision of safe spaces to people who have experienced sexual violence; the incorporation of sexual violence and the gendered norms on which sexual violence is premised into the curriculum; the institution of extra-curricular activities to address gender issues and rape culture; transformation of the institutional culture to undermine rape culture; and an ethos of engagement with the broader local and national society in fostering gender equity and undermining rape culture.

### The provision of safe spaces

- 39.** We recommend that a dedicated safe physical space (flat or room) be made available for complainants, with the following being in place:
- a.** There is no pressure on the complainant to move out of his/her residence or digs;
  - b.** There are beds for more than one person in case the complainant wants to have a friend or family member stay with her/him;
  - c.** There is a time limit on the stay in the safe space. (we recommend two weeks as the maximum stay);
  - d.** Keys are kept at the Campus Protection Unit;
  - e.** There should be a warden/sub-warden who can help the student settle in and provide them with any practical help that they need;
  - f.** Packed meals and a care pack (towels, some toiletries, tea and coffee, sanitary pads etc.) are provided.
- 40.** Harassment should be removed from the responsibility of the Manager of Student Wellness as a psychologist at the Counselling Centre due to various ethical dilemmas that have been evoked and which could be seriously problematic in future if not prevented. Instead, as noted above, the SVTT recommends that a separate Sexual Harassment Office should be established.
- 41.** An online reporting system such as Callisto, a digital rape reporting system which is currently being used in some US colleges, could be developed to allow complainants to report at a time and place that feels safest to them. Funding should be made available either to purchase an out-sourced version that is appropriate to South Africa or for an internal group of Masters/PhD students to develop equivalent software. Clear information of a complainant's reporting options and justice options should be provided on the system. The system allows for the storage of data and for the Sexual Harassment Office to be made aware of cases where complainants point to the same alleged perpetrator. Staff members of the Sexual Harassment Office can then follow up with the complainants (if they did not wish to pursue charges) to ascertain if, in light of there now being more than one complaint against the alleged perpetrator, they wished to proceed with a case. Alternatively, Remedial Discussions, as outlined above, could be followed. When complainants report their complaint, they should be alerted to the fact that University may contact them should further information (e.g. more complaints) come to light. The online system could include channels of support if the complainant chooses to stay anonymous. A similar "information portal" (including information on support) could also be set up for people who consider themselves potentially to be perpetrators.

- 42.** In addition to the support provided by support advocates, peer supporters could provide ongoing and sustained support. People may choose to do both the support advocate work and the peer support work or either. Peer supporters' work could include outreach-type activities: talks, opportunities for sharing stories, workshops etc. In addition, they could provide support to any complainants needing support (outside of the formal support provided during the retributive justice or restorative justice process, and for incidents that may have taken place prior to the person entering the University). This support could take place online or face to face. Training and debriefing opportunities for the peer supporters will need to be provided.
- 43.** Some, but not all, complainants may welcome the opportunity to speak to a psychologist in the Counselling Centre. This option should be made clear to the complainant. Psychologists and interns working at the Counselling Centre should be versed in dealing with cases of sexual violence, which should be included in their training; in addition, the caseload of the Counselling Centre should be reviewed on a regular basis to see if additional human resources are required.
- 44.** We recommend that the Academic Project and Protocol Facilitation Committee investigate interventions which would highlight the importance of mutual respect and tolerance of difference in political practices and engagements specifically in residences, as these should remain a space where students should feel safe and at home.

### **Increasing student safety**

The SVTT recommends instituting a number of initiatives that could assist with preventing sexual violence directly. This is separate to the initiatives that undermine rape culture and gendered norms.

- 45.** Bystander intervention trains students to identify and intervene in potentially harmful situations. The aim is to prevent sexual assaults by training students and staff to recognise and intervene in situations that could lead to sexual assault. It is recommended that this be included in the Orientation Programme of First years. Lessons from other such initiatives (e.g. Bell Bajao, Ring the Bell, which encouraged men to act against gender based violence) can be used to inform this training.
- 46.** There are a number of generic safety applications for cellphones (e.g. Circle of 6 which allows a person to add 6 people to contact in cases of emergency); these could also be an important tool in rape prevention. It is recommended that a customized app for the South African context with emergency numbers, support services' details etc. be developed/explored and that students be made aware of, and encouraged to use, the app.
- 47.** Contact numbers and physical addresses of doctors, the hospital, the Sexual Harassment Office, and the Counselling Centre should be made available to all students and staff in the form business cards, flyers, and posters on campus and online.

### **Increasing awareness and training on campus: Extra-curricular activities**

- 48.** A code of conduct that covers sexual violence, offences and harassment should be developed and every student and staff member should be required to sign a declaration stating that they have read the document, understand it, and agree to abide by the code.
- 49.** We recommend (a) an online training programme be instituted that all staff and students completes, with

basic information that everyone should know, and (b) more comprehensive workshops (which includes basic counselling skills) for those (e.g. wardens) who are more likely to be approached be conducted.

- 50.** In terms of 48(a), it is recommended that all staff and students be required to complete an online programme on sexual violence with the aim of instilling: (1) basic knowledge about South African law when it comes to rape and sexual violence, not only in terms of the legal definitions of rape, consent etc., but also in terms of reporting a case of rape to the police and how to go about getting evidence collected in ways that will hold up in court; (2) an understanding of whatever internal policies and procedures there are in place at Rhodes University, both in terms of disciplinary action and support; and (3) an understanding – gained through a range of vignettes, narratives etc. – of the impact(s) of rape and sexual violence on complainants, and on society, as well as the impact of rape culture on the ways in which we, as individuals, see ourselves and one another, and act in the world, and how our language, beliefs, values, and norms reflect rape culture.

Haven and End Violence Against Women International's Online Training Institute are online courses currently being used in some American and British Universities. They are effective as methods for disseminating information and training on sexual violence. The SVTT recommend that an online course mapped onto the Haven system but that accounts for the South African context of rape culture, and perhaps drawing on theory from Pumla Dineo Gqola's book *Rape: A South African Nightmare*, should be made compulsory for students entering the University. It would need to be implemented campus-wide initially but after this initial roll-out it could be implemented solely at first year level.

- 51.** In terms of 48(b), it is recommended that a range of in-depth workshops be provided in line with the needs of the particular participants. This would apply to Hall and Residence Wardens, Health Care Centre staff, support advocates, peer supporters, any staff members (and older students/survivors) to whom the students are likely to report, those working in the Division of Student Affairs and the Vice-Chancellor's Office, and prosecutors and proctors. The aims of the workshops would include: how to respond to the survivor in a way that does not cause further harm; in-depth analysis of rape culture and gendered norms; and basic listening and counselling skills (where appropriate).
- 52.** Student leaders (which include sub-wardens and house committee members) are expected to attend a week of training before the Orientation Week Programme commences. The SVTT recommends that the Student Leadership Training Programme, which is vital in equipping student leaders within the residence and Oppidan system to speak about, and assist with, issues pertaining to sexual violence, should continue. Consideration should be given to increasing the amount of time devoted to gender and sexuality issues during this week. The Manager of Student Wellness should liaise with the proposed Manager of the Sexual Harassment Officer in providing these inputs.
- 53.** The SVTT recommends a re-imagined Orientation Week and Beyond with activities and initiatives relating to sexual violence and rape culture being included in this week. These activities could then form the foundation for ongoing extra-curricular initiatives. Ongoing focussed events should take place during the first semester – during, for example, lunch time, in the evenings, and at weekends. A re-imagined O-Week and Beyond programme could involve a sustained and regular programme of residence discussions, rather than a single workshop during O-Week. It is also imperative to find a way of reaching Oppidan students. One of the Oppidan Committee portfolios from 2017 is a Transformation Representative. This person's portfolio could include issues of sexual violence.

- 54.** Over the past few years, but particularly in 2016, a number of students and staff members who are regarded as knowledgeable on issues of gender, sexuality, and rape culture, have been asked by residence student leaders and/or wardens to facilitate discussions with their students in their residence. It is recommended that more of these types of conversations take place. The Manager of the proposed Sexual Harassment Office should alert all wardens and sub-wardens to the possibility of such talks, and co-ordinate the setting up of such talks.
- 55.** It is recommended that a new profile be added to the residence House Committees, namely a Sexual Violence representative responsible for talks in residences, knowing the sexual harassment policies and procedures, and as a potential port of call for students to speak to.
- 56.** It is recommended that staff with expertise in gender/sexual violence and rape culture facilitate discussions/workshops with the various levels of staff at the University. This is particularly important as Table 7 in Appendix 6 shows that in the Quality of Residence Life Surveys conducted from 2010 to 2013, 15.1% to 21.3% of students indicated that they did not feel comfortable discussing personal issues with house wardens.
- 57.** Community engagement projects (such as the Gender and Sex Project – GASP) that engage with gender and sexual violence should be encouraged. The Sexual Harassment Office should keep a registry of projects/people/units conducting work, or with expertise, in gender and sexual violence for use within and outside the University community as necessary.
- 58.** The SVTT recommend that the Sexual Harassment Office, GenAct, and other pertinent units work with the OutRhodes and Gender Action Project student societies in the implementation of the recommendations contained in this report.
- 59.** It is recommended that the Silent Protest planning committee find ways of reimagining the Protest in light of what has occurred on campus in 2016, and the critiques that the #RURferenceList protests suggest about the protest. Recommendations from previous organizers should be carefully reflected upon.
- 60.** The “My Body My Choice” (MBMC) campaign is an exhibition that aims to disrupt and challenge the prejudice and discrimination people face due to their perceived or actual identity and the ways in which their identity is performed. The campaign involves a photoshoot where participants can represent themselves and perform their identities in the way they choose. While there have been some concerns, and negative reactions to the campaign, these should be worked with and the campaign continued in future years. It is recommended that the housing and resourcing of the annual MBMC campaign needs attention. Potentially this could fall under the Sexual Harassment Office, with staff of this office drawing on the expertise of others.
- 61.** In line with the aim of prevention, it would be useful to provide information to people who either feel that they may have committed sexual harassment (wittingly or unwittingly) or who have been accused of sexual harassment. This information would concern their actions, the implications thereof, and where to obtain support in preventing further incidents. An anonymous “information portal” could be set up for such people. Various options could be provided: (a) the provision of information on: what actions constitute sexual harassment/violence; University policies; the possibility of self-reporting, restorative justice processes; sources of help to work through psychological issues associated with being a perpetrator and how to desist from the behaviour; readings that could assist the person in understanding



the gendered dynamics (including the harm caused by particular forms of hegemonic masculinities) that underpin sexual harassment and violence; and (b) the possibility of anonymous electronic interaction with a staff member of the Sexual Harassment Office to talk through the actions and steps that an individual can take to remediate his/her behaviour.

- 62.** The proposed Sexual Harassment Office should keep a log of on-going extra-curricular activities on campus which challenge rape culture, and provide an over-arching co-ordination function of these activities. The Office should assist with resourcing where possible, or provide input on how to resource various initiatives, where this is necessary.

### **Inclusivity and institutional culture**

- 63.** The University's social space is not as inclusive as it could be, especially for "minority"/gender non-conforming students. On-going engagement is recommended with the imperatives of transformation of the University, specifically in terms of issues related to the appropriate representation of gender and race in both formal and informal University structures, as well as the tackling of key issues related to the lived realities of social exclusion experienced by many members of the University community when confronted with the prevailing cultural paradigm of the institution. It is suggested that the Office of Equity and Institutional Culture be sufficiently empowered to act as the driving force behind dedicated and continuing initiatives for transformation.
- 64.** For the years 2010-2013 the University conducted annual Quality of Residence Life (QUORL) Surveys. The purpose of the survey was to gain an indication of students' general satisfaction with the residence system/life in residence, and identify problems experienced by students with the view of improving the quality of residence life. The SVTT recommend that the QUORL Survey should be revised and resumed with input from the proposed Sexual Harassment Office; the surveys should include questions about sexual violence and sexual harassment that are constructed in a sensitive manner. These surveys have shown that a minority of students are discontented with their residence life, and this population of the University community deserves our attention. Therefore, attempts must be made to improve students' quality of life based on previous and future results of the QUORL Survey.
- 65.** The effectiveness of the QUORL Survey would require the items to be phrased in a clear and unambiguous way and for items to be consistently included from year to year. If re-instated, it would be more useful for the survey to be submitted online than in person during a house meeting as was the procedure. This would enable honest and uncoerced participation in the survey, which might be prevented by the presence of house committee members, sub-wardens and the warden during the administration and filling out of the survey. The results of the surveys would need to be published, in a number of formats (not simply made available on the University website) and students made aware of their publication. Where the results indicate problems, for example, in relation to student-warden, and student-sub-warden power dynamics, a mechanism should be put in place for these to be acted upon appropriately and the University community made aware of this.
- 66.** Issues affecting Oppidan students tend to be invisibilised. Although the QUORL Survey cannot be used for students living in digs, the SVTT recommends that a similar form of information gathering should be developed to gain an understanding of the experiences of the students living off campus.

- 67.** Student media editors, writers, and moderators should engage in reflective practice regarding how, and in what ways, they support particular University culture(s). The Media Representative of the SRC should take on the role of monitoring the SRC Facebook page to ensure that it creates and sustains an environment where rape culture is not tolerated. Balancing the right to freedom of expression and the sanction of hate speech, this could include not allowing hate speech, and the SRC Media Representative engaging with posts that foster rape culture, explaining why they are problematic.
- 68.** Important to a discussion on institutional culture at the University is the creation of a 'purple rhodent' identity as a way to unify students and collectively celebrate and (re)create University culture. This is most clearly identified in the 'Purple Thursdays' initiative. Where attempts at unification do not adequately include and address diversity, however, there is a risk of marginalising and invisibilising particular experiences by portraying a homogenous identity and experience. This is reflected in the 'Purple Rhodent' narrative which presents all students as enjoying equal opportunities at the University. It thus erases any differences in students' experiences of the University, experiences which are mediated and shaped by individuals' intersecting identities and backgrounds which afford or deny them privilege in varying ways. Importantly, in doing so, the narrative takes the experiences of the most privileged students at our University and misrepresents these as the experiences of a unified and homogenous student body. For these reasons, the SVTT recommends that 'campus culture' initiatives like 'Purple Thursdays' should be reviewed as part of the review of institutional culture undertaken by the Equity and Institutional Culture Office.
- 69.** Informal practices such as 'hunt-the-grunt', 'horse-racing', 'whale-harpooning', and 'seal-clubbing' desensitise students to the reproduction of particular discourses and practices regarding gender and sexuality. These identified informal gendered socialisation practices on campus need to be unpacked and problematized in a range of spaces, including as part of Orientation Week activities, student media, workshops with house wardens, and in the recommended common course.
- 70.** The drinking culture at our University, whilst not necessarily a causal factor in sexual violence, can be viewed as an exacerbating one, in that it forms the backdrop against which specific gender and sexual socialisation practices occur in the University context. A conscientising campaign organised through the proposed Student Safety Forum is recommended in relation to gendered practices around drinking. In particular, a campaign around 'enthusiastic/affirmative consent'<sup>1</sup> in Grahamstown's bars is recommended. This campaign can be used to conscientise students regarding some of the identified practices relating to drinking culture at our University, particularly where the drinking culture overlaps with or reinforces rape culture. The Eastern Cape Communication Forum (ECCF) in the School of Journalism and Media Studies have been engaged by the task team and have agreed that, upon the creation of the proposed Student Safety Forum outlined later in this document, the ECCF would be willing to help with the implementation of media projects around the idea of affirmative/enthusiastic consent.
- 71.** In addition to the residence culture at the University, the nature of social life for Oppidan students (i.e. those living in rented accommodation not on campus) must be considered. Oppidan wardens should engage with Oppidan students regarding gendered practices that occur within digs (in particular digs formals, which are 'blind date' drinking parties).

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<sup>1</sup> Enthusiastic/affirmative consent represents a move away from the common understanding of "no means no" to "yes means yes." Open communication and mutual respect are encouraged, with the absence of declining sex not being taken as affirmation.



- 72.** In order to support the formal work being done at a curriculum level, it is recommended that halls and residences be developed as spaces for conversations, deliberation, or sustained dialogues about rape culture and sexual violence. Residence culture will need to be addressed alongside curriculum activities, first, through the appropriate training of residence staff. Second, the position of an Anti-Sexual Violence Representative needs to be established on the House Committees of all residences and in the Oppidan Committee. This portfolio should include fostering conversations about sexual violence, patriarchy, and rape culture as well as being trained in temporarily handling and correctly directing any cases that may be brought to them. These roles can overlap with those of support advocates or peer supporters.
- 73.** Residence and hall wardens, as well as house committee members, need to engage with students regarding the creation of a non-sexist, non-heteronormative residence culture. This includes a review of inter-visiting rules and residence security (in line with the view of residences as safe spaces).
- 74.** ‘RU Jamming’ which replaced ‘Serenades’ should be reviewed. This could take the form of the inclusion of an open-ended item in the Quality of Residence Life Surveys, if re-instated, asking students to describe their experiences. Alternatively, a study or qualitative survey focusing specifically on students’ experiences of this event could be conducted or developed. The results of this should be widely publicised, along with the results of the previous investigation that Dr Vivian de Klerk (no longer at the University) committed to instituting. If the results do not confirm students’ experiences of coercion (even implicitly), heteronormativity, and harm, the activity may be allowed to continue. It is suggested that if RU Jamming is found to be heteronormative in nature, that another activity be created, with clear rules that will be enforced by a SRC representative. It is recommended that all who choose to participate are required to abide by these rules or face disqualification from the event. A suggestion could be a musical piece that reflects the identity/spirit of the residence. Alternatively, students themselves could send suggestions to the SRC and the best one selected by the SRC.
- 75.** Institutional responses to reports on transformation and institutional culture (all of which feed into sexual violence) requires attention. The Office of the Vice-Chancellor together with the Equity and Institutional Culture Office should develop a monitoring and evaluation framework to check the progress of reports relating to institutional culture through the University structures and the progress of implementing the agreed upon recommendations.
- 76.** The policy on relationships between staff and students should be revisited and updated, with consideration being given to students’ statements regarding these relationships. The policy must apply across all categories of staff and students, and should be well-publicised, with all HoDs and Head of Divisions being aware of, and abiding by, it.

### Promoting conversations

- 77.** Combatting rape culture requires that all members of the University community need to participate in conversations about the internal and external manifestations of rape culture. Constructive conversations of every kind (formal, informal, related to curriculum or not, confrontational or uncomfortable) which are not violent, disrespectful or hierarchical, are encouraged. Opportunities for more conversations about curricula and issues of sexual violence between staff and students should be facilitated. These conversations can be organised by centres such as CHERTL (Centre for Higher Education Research, Teaching and Learning), or by departments, faculties, residences, and student societies. To avoid topic-fatigue or overload, specific topics for conversations should be devised.

- 78.** At the same time, staff members need a space for communal, supportive discussions about methods of embedding issues of sexual violence in their specific disciplines and curricula. The Deans' Forum and specific faculties should discuss the possibilities for these spaces. An online forum of some kind might be suitable for this purpose.
- 79.** The use of a theatre intervention as a pedagogical tool to bolster the various other (curriculum included) activities on campus which tackle rape culture and sexual violence is strongly advocated but with many provisos. If theatre is considered an effective pedagogical tool, the University cannot expect that 'the drama department will do it' without recognition for student and staff labour, either monetarily or within other reward structures. The issues/stories/scenes will need to be scripted and developed with other sectors to ensure quality and impact; Janet Buckland's company Ubom! is a useful conduit which has been used regularly to help administrate the production and contract key people, and run the whole project. A strong and experienced director is required to ensure that what is created can reflect complexity and sensitivity. This person will work with diverse University constituents to research topics and gather views and opinions and key issues that can be translated theatrically. The start of the year is not the most ideal time – or – the play or scenarios need to be revisited mid-way in the year. This has implications, however, if students are involved as they are often busy with their University work. The alternative is that it be outsourced to a professional company such as Ubom!. Perhaps a model in which short scenarios are developed (20 minutes) and then played in smaller spaces (lecture venues/common rooms etc.) followed by more interactive strategies around the scenario or characters presented would allow for a deeper more manageable engagement. This would require finding a skilled facilitator to run these sessions multiple times in multiple spaces. Decisions will be needed as to whether such an intervention is 'extra' to curriculum or embedded within certain curricula. The task team recommends that Ubom! be funded to resurrect *Mina Nawe*, to adapt one of the other shows to deal adequately with representing rape culture on the stage, or to develop new theatre interventions as suggested above. Crucial to these interventions are post-performance conversations and the interventions should take place at least two or three times a year so as to sustain the conversations and thinking about rape culture in the student body.
- 80.** Sustained dialogue is a systematic, prolonged discussion among small groups of citizens in a community committed to change. It is recommended that the proposed Sexual Harassment Office, together with the Equity and Institutional Culture Office support a range of units/bodies within the University (student clubs, SRC, student and academic groups, wardens and sub-wardens in the residence system, and academic and administrative departments) in engaging in sustained dialogues. Input on how to conduct such dialogues could be given together with support in deciding and training moderators/facilitators and on-going support during the process.

### The implementation of a common course

- 81.** The University should consider implementing a common course across the University at undergraduate level as a DP requirement. The course should include issues of social justice, transformation, and sexual violence. The course could have online and personal contact aspects, with facilitators monitoring and assisting in discussions. The *liNtheto zoBomi* course can function as a template for such a common course. This course could be tailored to include more focus on sexual violence and related issues and be run across campus as a general compulsory course on critical thinking and ethics. With the input of Prof Pedro Tabensky and Dr Lindsay Kelland we thus identify the *liNtheto zoBomi* course as a prototype

course that has scope for expansion into a wider ranging and perhaps compulsory common course that can be completed by every student who enrolls at the University. The logistical and financial implications of a common course will need to be carefully and collectively planned.

### Embedding sexual violence prevention in the curriculum

**82.** The Dean of Commerce has prepared a document outlining how the Commerce Faculty could embed issues relating to sexual violence in its curriculum (see Appendix 7). It is recommended that ALL faculties engage in a similar process to the one engaged in by the Commerce Faculty to consider how issues relating to sexual violence and rape culture (and other issues relating to social justice) may be included in the Faculty curriculum. The report produced by the Commerce Faculty may serve as an example. It is recommended that reports from faculties serve at the Deans Forum and at Senate and that such engagement form part of the formal Curriculum Review process that is currently underway.

### Transformation of teaching and learning spaces: The construction of deliberative spaces

**83.** Deliberation aims to establish the common understandings within a ‘community’ about the nature of their problems and to facilitate discussion and consideration before a decision or action is made. The notion of ‘deliberation’ can be used to develop new courses or to enhance existing courses, and to shape teaching practices at the institution in order to engage collectively and constructively with the problem of sexual violence. It is suggested that a multi-disciplinary course in the theory and practice of deliberative democracy (possibly involving Political Science, the School of Journalism and Media Studies, Sociology, the Allan Gray Centre for Ethical Leadership and other interested departments and institutes) be developed at the University. It may be advisable to limit the content of the course to issues of transformation and sexual violence in the first instance, given the urgency of these issues. Suitable training of staff (facilitators, lecturers, and tutors) will need to be undertaken.

**84.** ‘Disruption’ as a negative word in everyday parlance should not be confused with the term ‘disruptive pedagogies’ which is a technical term used in educational thinking among academics. ‘Disruptive pedagogy’ seeks to challenge the taken-for-granted approach to so-called neutral knowledge, in order for teachers and students to be aware of how knowledge reflects the injustices of society i.e. in terms of class, race, patriarchy, gender, colonialism, religion, and language. Instead of safe spaces, disruptive pedagogy advocates creating zones of discomfort so that students and staff can critically reflect on their identities. Using the theoretical and conceptual tools of ‘disruptive pedagogies’ can be creative and effective strategies to resist rape culture in the classroom context. CHERTL can provide support to lecturers wishing to utilise these methodologies in their courses.

**85.** The attitudes and power relations that constitute and create rape culture need to be understood through examining the institution’s invisible curriculum. Research on the institution’s invisible curriculum will help direct responses that change attitudes and power relations. Through processes informed by deliberation and sustained dialogue the invisible curriculum can be transformed to healthier, equitable relations between members of this community. Research into the invisible curriculum could include:

- a. identifying factors that cause some constituents of the University to feel disempowered and lacking agency;
- b. addressing the underlying causes of unhealthy power imbalances and disempowerment;

- c. identifying factors that lead to power imbalances and devising strategies to rectify these imbalances;
  - d. incorporating the results of these studies in staff development and support;
  - e. including these results in the Curriculum Review.
- 86.** It is necessary to make support material available for academics in faculties that do not deal directly with issues of sexual violence, and for all academics who require this kind of support. Reports from staff working in disciplines that do not explicitly deal with these issues convey that they feel the need to be made aware of and equipped with knowledge of the discourses that have informed the protests against rape culture. They express a desire to be better able to understand and respond appropriately to their students' pain and concerns. Existing staff should have the option of completing a course or workshop on the discourses of rape culture and sexual violence, or have access to relevant materials, so as to adequately equip themselves to address these issues in their classrooms or in other related contexts. These workshops can be set up by the proposed Sexual Harassment Office in conjunction with HR.
- 87.** New staff will have the opportunity to be guided and supported on how to tackle issues of sexual violence in their curricula during the Academic Orientation Programme run by CHERTL. The Academic Orientation Programme should involve more students so as to give new staff an opportunity to learn about the context which they are entering.
- 88.** A strong recommendation is made to put together a booklet with various case studies and ideas of how rape culture can be countered at curriculum level (drawing on the data gathered by Task Team 3 and from beyond). This task will be undertaken by a group of academic staff across disciplines and will be co-ordinated by CHERTL. The booklet will follow a similar format to that of the CHERTL series of booklets on various aspects of academic practice which is published on the Teaching and Learning page of the University website. The booklet will focus on stories of/by students who have experienced rape and gender violence. Perhaps something interesting could be done with text boxes which offer suggestions or point to additional resources for others who may have experienced something similar.

### **Towards a clear institutional ethos of engagement with society**

- 89.** It is recommended that a 'commitment statement' is drafted by the University outlining the position of the University with regard to how it encounters the community, society and the legal system governing our country. Specifically it should state:
- a. the understanding of our University as a community, collectively owned and guided by all its members;
  - b. the role, powers, and responsibilities of our University in creating a more just and equitable society;
  - c. a commitment to continuously engage with our country's legal system as a tool towards seeking justice, both inside and outside our University, but never in a way which may give the impression of creating or reinforcing the injustices of our society;
  - d. a commitment to be proactive in challenging laws or policies which hamper our University's goal of seeking justice and a more just and equitable society.

The University's staff, including senior management, senior administrators, and directors, should sign a declaration of their commitment to apply these tenets in all their actions during their time at the University and to inculcate every action they take in our University with these principles.

- 90.** We recommend certain changes be made by the Student Representative Council to establish better representation of student issues and develop relationships between the student body and the wider Grahamstown community, including:
- a.** The establishment of two non-executive posts within the SRC structures to offer student representation on the Grahamstown Victim Empowerment Program (VEP) and Community Policing Forum (CPF) respectively. These two representatives should be required to attend all VEP and CPF meetings and represent the concerns of students at these forums with a view to building relationships between the institution and the Grahamstown community. These representatives should report to the SRC, but should not have portfolios in the Council beyond their representation of student interests. In other words, these should not be political posts but should rather be focused only on representing and liaising between students and Grahamstown community structures.
  - b.** An SRC-led investigation into ways to establish a Student Safety Forum that will work proactively on the societal causes of sexual violence and other issues around student safety. The forum would aim to address rape culture both in terms of changing attitudes on campus and in our wider society. The focus would be on promoting safety by changing attitudes that provide cover for sexual violence, abuse, and harassment. It is suggested that the forum be established by, and consist of, the following founding members: SRC Community Policing Forum representative; SRC Victim Empowerment Programme representative; Community Engagement Office representative; Gender Action Forum (GenAct) representative; Grahamstown Business Forum (GBF) representative; SRC Council Member for Community Engagement; and a representative of the Office of Equity and Institutional Culture.
- 91.** It is suggested that the proposed Sexual Harassment Office - together with the Equity and Institutional Culture Office, Community Engagement Office, GenAct, Gender Action Project, and SRC engage with other stakeholders in the country (e.g. the national Sexual and Reproductive Justice Coalition (SRJC); other Universities; HEAIDS) to discuss the possibility of setting up a national Annual Convention on Sexual- and Gender-based Violence to be hosted in different parts of the country. This University could take the lead by hosting the first Convention.
- 92.** There are a number of researchers engaging in research on gender and sexuality related issues. Apart from the Chair in Critical Studies in Sexualities and Reproduction (CSSR), a number of researchers in diverse departments engage in relevant research that could be taken up in policy engagements. The translation of research into policy, however, is a particular process that requires particular skills. While the CSSR has had some success in inserting its research into policy forums, this has been with considerable effort. The proposed Sexual Harassment Office should compile a list of researchers conducting relevant research. Workshops on writing policy briefs should be held with these researchers and opportunities for presenting these in policy spaces discussed. The possibility of forming part of the national Sexual and Reproductive Justice Coalition should be discussed. Support for these endeavours should come from the Research Office. The possibility of obtaining research funding to support the translation of research into policy should be considered.

**93.** Sub-task team 6’s mandate was to “develop a system of monitoring and evaluating the embedding of the recommendations within general policy and procedures of the University, and the implementation of accepted recommendations”. This work will start next year in conjunction with GenAct and the Equity and Institutional Culture Office. Appendix 9 contains a summary list of the recommendations with space for responsible people/units to be filled in. This applies to many people and units across the campus.



## BACKGROUND

**In response to the protests against sexual violence at the University, a task team was set up through a participatory process to explore ways in which a counter-culture to rape culture may be addressed at the University and more broadly. Six major issues were identified for consideration, with a sub-task team working on each of these mandates. The task team was mandated to make, where possible, concrete and actionable recommendations. See Appendix 1 for the terms of reference for the task team.**

This document is the result of the work of the various sub-task teams and the steering committee as well as comments from the broader University community and external advisors. The first part of the document outlines the broad over-arching approach recommended by the task team: a three-pronged justice approach to sexual violence, these being retributive, restorative, and reparative justice. This part of the report is called the Foundation Document as it provides the conceptual basis for the recommendations that follow.

The rest of the report provides recommendations in line with the specific terms of reference of the sub-task teams. The current policies and procedures are reviewed and recommendations made concerning changes that need to be effected. The question of creating safe spaces for complainants is addressed, as well as the integration of issues concerning sexual violence and the gender norms that underpin rape culture into the curriculum, tackling systemic issues, and liaising locally and nationally to effect change in gender norms.





# PART 1

## FOUNDATION DOCUMENT

### Introduction

In this part of the report we address the underlying principles with respect to the recommendations we make in this report, as it is important to have a solid conceptual framework on which to base policies and procedures. The Sexual Violence Task Team (SVTT) proposes a three-pronged justice approach to dealing with sexual violence at the University: retributive justice (support for people who opt to use the criminal justice system - internal disciplinary procedures); restorative justice (process whereby harms are acknowledged and amends made); and reparative justice (systemic processes that address the gendered norms underpinning rape culture).

In a paper entitled *Justice beyond bars*, Amy Kasparian (2014) argues for a multi-faceted approach to justice with respect to sexual violence. She indicates that “For some [‘victims/survivors’], justice is simply the perpetrator’s conviction and incarceration. For others, justice is receiving compensation from the offender or the state to help with civil matters like securing safe housing, affording counseling, or repairing property damage. To others, it is having a meaningful opportunity to tell one’s story to the community, or perhaps directly to the offender. And yet still, to other victims, justice is having the offender publicly acknowledge and apologize for the harm caused. In short, justice to rape victims can manifest itself in many diverse forms that often do not necessarily rely on the traditional criminal justice idea of punishment” (Kasparian, 2014, p. 377).

The inadequacy of relying solely on a retributive justice approach to sexual violence has been immanent to the recent protests. Protesters have indicated that the University’s policies and procedures do not provide the kinds of justice that people who experience sexual violence require. As indicated by Koss and Achilles (2008) in their review of restorative justice in relation to sexual violence, “A consensus of published studies is that complainants need to tell their own stories about their experiences, obtain answers to questions, experience validation as a legitimate victim, observe offender remorse for harming them, receive support that counteracts isolation and self-blame, and above all have choice and input into the resolution of their violation” (p. 2).

It is for this reason that a three-pronged approach to sexual violence is proposed. In the first place, a thorough and rigorous system of retributive justice should be put in place. Where people who have experienced sexual

violence would like to proceed with internal or external prosecution (where appropriate), they will be provided with proper (non-judgmental, caring, thorough) support to do so. But even with the best of systems in place for the practice of retributive justice, given the private and contested nature of much sexual violence, this model of justice is unlikely to suffice in providing sexual violence justice. Prosecution concerning sexual violence requires evidence and information about the complainant’s relationship with the defendant; such trials are often a form of secondary victimisation, and attrition rates are high. In addition, convictions are rare both in South Africa and worldwide and, where they do occur, sometimes result in lenient sentencing. As indicated by Daly (2006), “in an adversarial system ... accused persons have the right to deny offending and the evidentiary hurdles are especially high in establishing legal guilt” (p. 353). Therefore, it is proposed that retributive justice is complemented with systems of restorative and reparative justice.

In this proposal, three principles of justice in relation to sexual violence are proposed for implementation. It is proposed that all three approaches to justice be implemented at an institutional level. In the following, each concept of the three-pronged approach is outlined. It is proposed that the first two – retributive justice and restorative justice – are underpinned by a network of support (see later recommendations concerning the forms that this network of support should take). The implications of these proposals in terms of the mandates for the task team on sexual violence are explored below.

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## THE CONCEPT OF RETRIBUTIVE JUSTICE

There are two forms of retributive justice open to University student/staff complainants: the criminal justice system (CJS) and the University disciplinary procedures. It must be noted that these are very different and parallel systems: the CJS system punishes crimes and needs to prove that a crime is committed beyond a reasonable doubt for conviction. The internal disciplinary system punishes offences that contravene the agreed upon rules laid out by the University. Proof, in this instance, is on a civil rather than criminal standard – on a balance of probabilities/preponderance of evidence.

There are various possible avenues for using these systems (see concrete recommendations concerning these processes in Part 2 of this document):

- a. Criminal justice system only: the complainant decides to lay a criminal charge without laying a formal complaint within the University system;

- b. Criminal justice system followed by disciplinary system: the complainant lays a charge with the criminal justice system, which, depending on the outcome of this process is followed by a disciplinary hearing at the University;
- c. Criminal justice system and disciplinary system are set in motion simultaneously (see our later consideration of the suggestion that this is not possible);
- d. Complainant lays a disciplinary charge only.

### Internal retributive justice

At present the Student Disciplinary Code and the Staff Disciplinary Procedure are the two avenues for effecting internal retributive justice. These are supplemented by the Sexual Offences Policy for Students, the Policy on Eradicating Unfair Discrimination and Harassment, the Protocol on Sexual Assault, and the Grievance Procedure. Concrete recommendations concerning the internal

retributive justice process are made in Part 2 of this document.

### Support for external retributive justice

Research shows that complainants' experiences of nurses', polices', and legal representatives' actions during the prosecution of sexual violence cases is not as supportive as these service providers believe they are (Koss & Achilles, 2008). Given the adversarial nature of the criminal justice system, the possibility of re-traumatisation and attrition is high. However, the presence of a 'support advocate' (see recommendations in Part 2 below) from the beginning phases of emergency room consultation through all interactions with healthcare, police, and legal systems, helps to alleviate complainants' negative experiences (to the degree that this is possible under such circumstances) (Koss & Achilles, 2008). See recommendations concerning a network of support below.

## THE CONCEPT OF RESTORATIVE JUSTICE

Restorative justice programs offer an alternative route to justice by providing the complainant and accused, as well as others harmed in varying ways by the incident, with an opportunity to meet and discuss the consequences of the crime. Restorative justice operates from a different premise than retributive justice. Rather than specifying what crime has been committed or what rule has been broken, the primary concern is about harm and remorse. This distinction is important as the alleged perpetrator is not being asked to admit guilt of a crime *per se*, but rather to acknowledge the harms caused (this may lead to an admission of guilt, but such an admission is not required). Rather than imposing sanctions on the alleged perpetrator, collective problem solving is used to seek restitution to the extent that this is possible. This does not mean that the alleged perpetrator escapes from repercussions of community distrust as the processes can

accommodate the expression of outrage or moral disapproval (Karp & Frank, 2016).

In restorative justice, processes are implemented in which the accused accepts responsibility, and shows remorse, for the harm that his/her actions have caused and works collaboratively with those who have been harmed, guided by and drawing on support resources, in order to offer restitution and avoid recurrence of offending behaviours. It is important to notice that restorative justice is **not** mediation, which implies the resolution of a conflict between two equal parties. Sexual misconduct is not a conflict, but rather the serious infliction of bodily and/or psychological harm in situations of unequal physical, gendered, and institutional power relations.

Restorative justice recognizes these power imbalances: those most affected by sexual violence should be given the opportunity to become actively involved in how the case is handled, and it is a fundamental requirement of a restorative justice process that the alleged perpetrator accept responsibility for harm as a precondition of participating in the conferencing meeting. Restorative resolution will be guided by the wishes of the complainant and may include a range of actions including, but not limited to: a public or written apology; demonstration of accountability by the offender; validation of the complainant's experiences; a community service requirement; the accused taking a course on gender; financial payment; or the accused undergoing treatment. Kathleen Daly (2002) argues that restorative justice does and should contain within it an element of retributive justice.

Skelton and Batley (2008), in their review of restorative justice in South Africa, argue "that local developments in practice ... promote the application of restorative justice" (p. 62). In a recent paper, Sherman, Strang, Mayo-Wilson, Woods and Ariel (2015) synthesised the findings of ten eligible randomised trials of restorative justice conferences on the incidence of repeat offending.

They concluded that restorative justice conferences constitute a highly cost-effective approach to reducing repeat offending. Other studies suggest that the impact is even more marked when the crimes involve direct harm to persons who are present during the restorative justice conference. Considering that research in South Africa has shown that the majority of men who rape will commit their first offence in their late teens and that less than half will rape only once (Jewkes, Sikweyiya, Morrell & Dunkle, 2011), reduction in repeat offences offers a compelling reason for considering the implementation of restorative justice. Restorative justice has increasingly been used in cases of sexual violence across the world and, despite some concerns (see discussion below), has received positive reactions from feminist writers and professionals (McGlynn, Westmarland, & Godden, 2012; van Wormer, 2009).

In general, options for implementing restorative justice include: sharing circles, complainant-accused dialogues, victim impact panels, community reparation boards, circles of support, conferencing, and restorative discipline in education settings (Koss & Achilles, 2008). The method most commonly used in relation to sexual violence is conferencing as seen in various RESTORE (Responsibility and Equity for Sexual Transgressions Offering a Restorative Experience) programmes. Research conducted by Daly (2006) found that the restorative justice conferences may be less victimizing for the complainant than a court process and that the penalties reached may have better outcomes.

Whilst restorative justice approaches are by no means mainstream, they have been implemented in an increasing number of universities across the United States in recent years. In an article in the *Higher Education Chronicle*, Lipka (2009) described initial successes at a number of institutions and Koss, Wilgus, and Williamson (2014) have argued strongly that restorative justice approaches can enhance and expand the options available to complainants of sexual violation. They cite research which has

shown that, in the context of sexual violence, restorative justice is feasible, offers a safe process for complainants, and provides justice satisfaction to participants (Koss, Wilgus & Williamson, 2014). However, to our knowledge, there is no published research that evaluates the implementation of restorative justice processes in relation to sexual misconduct in higher education settings. Recommendations concerning the implementation of such a process are contained in Part 2 of this document.

## THE CONCEPT OF REPARATIVE JUSTICE

Reparative justice is associated with restitution or recompense for an injustice: when a person's or community's rights, and his/her/their interests are harmed, then this injustice needs to be remedied (Thompson, 2002). It has been invoked in a range of contexts, including criminal justice, historical injustices (slavery and colonialism), and post-conflict situations. While it often refers to reparative obligations in the case of a crime, obligations to make reparation need not imply criminal liability (Kelly, 2011). The latter aspect is important in the case of sexual violence where criminal liability is often difficult, and sometimes impossible to prove within current legal approaches to sexual violence.

The fundamental premise of reparative justice, *viz.* that a person's or community's rights or interests have been harmed, is key in terms of an application of reparative justice in the case of sexual violence. Sexual violence of any sort represents an injustice in terms of a person's (mostly women's and gender non-conforming people's) bodily integrity, an injustice that is rooted in a range of social inequalities. As such, the repair required in reparative justice should not simply involve individual restitution, but also **social forms of repair** that acknowledge those who have experienced sexual violence in ways that validate their experiences and that provide spaces of perpetrator and community accountability. It is proposed that a particular model of reparative

justice – Ernesto Verdeja’s (2008) critical theory of reparative justice – is used to underpin reparative justice in the University setting.

Verdeja (2008) introduces a normative framework for understanding the goals of reparation. This normative framework, drawing on Nancy Fraser’s (2003) notion of ‘status parity’, points to the need for reparation around material/objective conditions and symbolic/subjective, identity-based conditions. Verdeja (2008) further differentiates between individual and collective reparations. The combination of types of reparation and the recipients of reparation allows for four reparative dimensions: individual material, collective material, individual symbolic, and collective symbolic - each of which will be discussed below in relation to sexual violence. As with all such frameworks, the distinctions made are heuristic or, as Verdeja (2008) acknowledges, “ideal-typical” (p. 208); in practice, the four are intertwined in complex ways.

Reparation at the individual material level provides individuals with greater autonomy, including “individual rehabilitation through access to medical, psychological and legal services” (Verdeja, 2008, p. 215). This is probably the least controversial aspect of reparation, and has been the focus of most policies relating to sexual violence in higher education institutions. The need for people to be able to report sexual violence, to be attended to medically, to obtain psychological support in the form they would like it, and to access legal assistance should they wish to pursue the case is widely recognised.

The collective material dimension of Verdeja’s (2008) framework refers to the provision of “resources to victimized groups as a way of obtaining the material basis and security required for them to participate fully in social political and economic life” (p. 215). Two elements of this statement are important in relation to sexual violence. First is the material basis of collective reparation. Research shows that the costs to complainants and their families of

sexual violence are significant (a costing analysis undertaken by the New Zealand Treasury indicated that an incident of sexual violence represents a combined cost to complainant, family and society of \$72,130 (Julich et al., 2010)). Costs may be incurred in obtaining medical and psychological assistance, in time taken off work/learning, and in legal fees, and should include the emotional costs of going through processes to ensure that justice is served. Material reparation in the University context should include the provision of healthcare services, counselling services, debriefing spaces, social support spaces, generous Leave of Absence concessions, and, where the complainant is a student, special catch-up tests and examinations, and generous return policies should the student take temporary absence from the University. The second issue relates to the security of the complainant. This particular concern featured strongly in the recent protests, with survivors indicating that they did not feel safe on campus while alleged perpetrators occupy the same space. In addition, as the University is located in a small town, the chances of contact outside of the University are high. Reparation means that serious consideration is given to the emotional and physical security of the complainant through the provision of safe spaces, no contact orders and suspension orders (where appropriate and where these are requested by the complainant), and following due processes.

The collective symbolic aspect of reparative justice implies highlighting repressions, recognising complainants’ experiences of these repressions, and condemning narratives that legitimate the repression and that place responsibility for suffering on the victim (Verdeja, 2008). This element of reparative justice speaks broadly to undermining what is known as rape culture – the metaphors, narratives, discourses, power relations, everyday practices, and institutional arrangements that foster particular kinds of gendered, racialized, sexualised, and class-based power relations in which sexual violence is, at best, minimised in importance and at worst, normalised. Collective symbolic reparation within the University



context requires embedding issues concerning sexual violence within the curriculum and activities of the University, and addressing systemic issues that foster particular hetero-patriarchal norms.

These issues will be given more attention in Parts 3 to 8 of this document.

The individual symbolic dimension focuses on recognising those suffering from injustices as individuals rather than reducing them to “amorphous collective identities” and includes paying attention to how injustice affects “individuals as individuals” (Verdeja, 2008, p. 214). In relation to sexual violence, the individual symbolic dimension highlights the importance of understanding individual lived experiences of sexual violence, and providing them with a space in which to give testimony and to be heard by supportive and understanding witnesses. The Silent Protest has addressed this dimension

of reparation for the past nine years. However, it is clear that whilst this has provided acknowledgement and validation to those who have participated, addressing only one dimension whilst neglecting others has contributed to the climate in which the #RURestoreList protests took place. These issues will be given more attention in Parts 3 to 8 of this document.

### **MANDATES OF THE TASK TEAM ON SEXUAL VIOLENCE AND THE PROPOSED THREE-PRONGED APPROACH**

The table below outlines the manner in which the proposed three-pronged approach fits with the five central mandates laid out for the task team on sexual violence (please see the Terms of Reference document in Appendix 1 for the full list of mandates of the sexual violence task team).

<b>Mandate of the task team</b>		<b>Element of three-pronged justice approach</b>
<b>1</b>	Safe spaces	Individual material and symbolic reparation
<b>2</b>	Policies and procedures	Restorative justice and support for retributive justice
<b>3</b>	Curriculum and activities	Collective symbolic reparation and individual symbolic reparation
<b>4</b>	Systemic issues	Collective material and collective symbolic reparation
<b>5</b>	Local and national issues	Collective material and collective symbolic reparation

# PART 2

## POLICIES AND PROCEDURES

### Introduction

**The following Rhodes policies have pertinence with regard to sexual harassment:**

1. Policy on Eradicating Unfair Discrimination and Harassment
2. Grievance Procedure
3. Staff Disciplinary Procedure
4. Student Disciplinary Code
5. Protocol on Sexual Assault
6. Rhodes University Sexual Offences Policy (Students)

In order to situate the above mentioned policies within the context of other Higher Education institutions in South Africa, the following policies were obtained and distributed to the committee members for review:

1. Sexual Harassment, Sexual Assault and Rape Policy and Procedures – Wits
2. Disciplinary Procedure of Gender-Related Misconduct (Staff and Students) – Wits
3. Policy on Sexual Harassment and Assault in the Workplace – UWC
4. Harassment Policy – UJ
5. Standard Operating Procedure for Reporting and Investigating Allegations of Harassment – UJ

In addition, the administrative assistant contacted some universities with questions relating to their policies, in particular:

1. Does (the University) include rape in its definition of sexual harassment?
2. Does (the University's) sexual harassment policy insist that rape be reported to the South African Police OR is this decision entirely up to the complainant?
3. Does (the University) have an internal system which deals with rape? (i.e. if a student or staff member have committed rape can the University exclude or dismiss them?)
4. If a complainant wishes to remain anonymous and not seek justice internally, can (the University) still choose to take action if the alleged perpetrator is seen as harmful to others?

## EVALUATION OF EXISTING POLICIES AND RECOMMENDATIONS LINKED TO CURRENT POLICIES

### General/recurring issues

There are a number of general issues across the six relevant policies and procedures that we highlight in this section. In the following sections, we speak to issues general to all of the policies and procedures.

1. There are multiple policies/documents that deal with sexual offences and they are to be found in different places.

*Recommendation:* There should be one comprehensive Sexual Offences Policy that deals with Sexual Harassment and rape culture at the University. In addition to the issues listed below the policy should outline:

- a. The support provided to complainants;
- b. How the University should engage in the proposed three-pronged justice approach (including preventive efforts suggested by reparative justice);
- c. All procedures relating to staff and students;
- d. Clear definitions of forms of sexual harassment. There need to be clear distinctions between non-contact and contact sexual harassment (with the proviso that each

may consist of a range of severity, such as severe non-contact harassment of stalking and sexual propositions). All types of sexual violence, offences and harassment should be contained in the policy in order to assist in reporting being specific, with no room for misinterpretation of the offence(s);

- e. How incidents can be reported. The revision of the disciplinary codes should articulate the policies in such a way that it makes reporting of all sexual offences easier no matter how 'minor' the offence;
- f. A clear link between the various definitions of sexual harassment and recommended sanctions (taking the Zinn Triad – see below – into consideration);
- g. The procedure to follow in obtaining LOAs, a no contact order and suspension order from the proposed Sexual Harassment Office (signed by the Vice-Chancellor) should be outlined in the policy. In addition, the policy should outline the process to be followed in order to get the magistrate's court to issue a protection order.

This consolidation needs to be accompanied by revisions of policies in which sexual harassment or violence need to be referred to (e.g. the Staff Disciplinary Procedure and the Student Disciplinary Code), to ensure consistency throughout.



2. The six policies and procedures refer to a range of stakeholders who are responsible for various tasks. The relationship between these is not always clear (e.g. the Director of Special Projects in the Office of the Vice-Chancellor oversees student discipline, but is not mentioned in the Sexual Offences Policy for Students). The nature of the positions mentioned in the policies have changed over time, a change that is not reflected in the policies. For example, the student co-ordinating officer referred to in the Policy on Eradicating Unfair Discrimination and Harassment no longer performs the functions outlined in this policy. It is the SVTT's opinion that the inconsistencies between the written policies and what is actually occurring in practice (e.g. the elimination of the reporting officer position) is as a result of there being no single person or office responsible for sexual harassment on campus.

*Recommendation:* A Sexual Harassment Office should be established in the Equity and Institutional Culture Office or the Office of the Vice-Chancellor and be appropriately resourced and supported. This office should be the custodian of a strong network of support with knowledgeable and skilled professional staff to oversee the implementation of the three-pronged approach to justice in the case of sexual violence, and should provide the following services:

- a. Front line administrative service, basic information, and appointments;
- b. Ideally two staff members able to act as reporting officers to take a statement and gather information necessary to inform the student or staff member of the options available to resolve the matter in a way that is compliant with the legal system. These staff members therefore need a legal background but must also be sensitive and supportive to the complainant and thus also require basic counselling skills. One of these staff members would also function as the Sexual

Harassment Officer: this person is directly responsible for ensuring that the policies and procedures around harassment broadly, and sexual harassment and violence in particular, are followed. S/he is responsible for: setting up reporting systems, tracking cases, being alert to the possibility of repeat offenders, arranging for the training and supervision of the support advocacy officers and peers, and monitoring the system of advocacy officers and peers. S/he will liaise with various stakeholders concerning the implementation of the reparative justice system within the University. The other staff member will take on the role of Restorative Justice Officer and would facilitate the restorative justice conferences. Training in rape culture and knowledge of how to support and respond to complainants is essential. High levels of interpersonal and facilitation skills will also be needed. These staff members will provide a quarterly report to GenAct;

- c. Training of support advocacy officers/peers and peer supporters;
  - d. Initiating, keeping a register of, and supporting all extra-curricular activities, including residence talks (as outlined later in this document);
  - e. Liaising with the Directorate of Student Affairs concerning the possible resurrection of the Quality of Residence Life Surveys, as well as other surveys that can assist the University in understanding institutional culture issues relevant to sexual harassment.
3. The Sexual Offences Policy for Students talks about Supporting Officers, while the Policy on Eradicating Unfair Discrimination and Harassment talks of Reporting Officers. Despite the different names, the duties of these people are similar - they are trained volunteers who assist a complainant. In particular, they were assigned the task of receiving complaints.

This system was put in place for a while, but then abandoned as a result of the photos of the various volunteers being vandalised with messages such as “we would not report to you”. In addition, it was felt that the reporting officers lacked the capacity to assist people in making choices and did not have sufficient training to guide people in decisions. Reporting complaints were then consolidated in the Harassment Officers in Student Wellness and Human Resources.

*Recommendation:* A system of support advocacy officers/peers should be set up, but with a different aim to the reporting/supporting officers referred to in the policies. It is recommended that reporting be the purview of the Manager and other staff of the Sexual Harassment Office, but that complainants be offered a choice of support advocacy officers/peers once they have reported their complaint (either online – see recommendation below – or in person). These support advocacy officers/peers would be staff members and students from across the University (including all grades of staff) who volunteer to be trained and to work as support advocacy officers/peers. These advocates would be well versed in the policies and procedures, both internal and external, and would be trained in basic listening and containment skills. They would provide informational support, particularly in terms of the various options available and the importance of retaining evidence in the case of prosecution. Importantly, they would provide emotional support to a complainant and would walk with them through the various phases of the process decided upon by the complainant. These support advocates would not be legal representatives or counsellors, but rather people who are ‘on the side’ of the complainant, and who would support the complainant in making the decision that best suits her/him in negotiating the form of justice that s/he would like to see instituted. Support advocates can also see

complainants through the process of a restorative justice conference, should the complainant decide on this route. There should be a range of support advocates with varying demographics available in order for students to select a support advocate with whom they feel most able to talk about a traumatic sexual violation. Support advocates need to be trained in active listening, basic counselling and containment skills. They should have a background in Law and/or be trained in the law and legal practices relating to sexual violence in South Africa (Advocate Turner from the NPA has indicated that she willing to provide such training). They should be required to take an oath of confidentiality tailored to the requirements of the position, and should receive regular debriefing from a qualified professional. They should provide regular updates to the Manager of the Sexual Harassment Office. These support advocacy officers are not the same as the supporting or reporting officers referred to in the current policies. They will not be tasked with receiving the complaint or ensuring that the complaint is followed up through the system.

4. As indicated above, there has been some difficulty in matching policies and practices.

*Recommendation:* Clear structures of accountability will be necessary for the proposed Sexual Harassment Office. It is recommended that GenAct should oversee the implementation of all of the task team mandates through this office, taking into cognisance the recommendations made in all of the task team reports. The Sexual Harassment Office should provide a six monthly report to GenAct, which will also serve at the Equity and Institutional Culture Committee, and, if necessary, Senex and Senate. The report should include a formal, anonymised record of all reports of sexual violence. These reports should be made publicly available to the University community.

5. While the mandate of the SVTT did not include broader issues of race, sexual orientation, gender diversity, nationality, religion, language, and class background, it is recognised that sexual violence is deeply imbedded in multiple overlapping power relations.

*Recommendation:* It is strongly recommended that the University consider establishing a Harassment Office within which the Sexual Harassment Office can be located. The Harassment Office could deal with the prevention and disciplining of all forms of hate speech and discrimination. The methods recommended in this report for use in terms of sexual harassment and violence can be extended to these issues.

6. The VC of this University has repeatedly stated that the University should not rest until the scourge of sexuality violence is addressed. This suggests a zero tolerance approach to rape, sexual assault, and sexual harassment.

*Recommendation:* This zero tolerance approach should be reflected in the policies of the University moving forward (especially with regards to the sanction of those who are found guilty). For example, in the Staff Disciplinary Procedure, non-contact sexual harassment should be defined as a serious form of harassment and dealt with at this level (“more serious forms of harassment” under serious offences (Category B)). Any form of contact sexual harassment should be dealt with as a Category C offense.

7. The definition of sexual assault and sexual harassment are not always consistent across the policies. Here are the definitions according to the Sexual Offences Protocol:

*Sexual assault occurs when the act is intentional and is committed by:*

- a. *physical force, violence, threat, or intimidation;*
- b. *ignoring the objections of another person;*

- c. *causing another’s intoxication or impairment through the use of drugs or alcohol; or*
- d. *taking advantage of another person’s incapacitation, state of intimidation, helplessness, or other inability to consent.*

*Sexual harassment occurs when the act is committed without intent to harm another and where, by failing to correctly assess the circumstances, a person believes unreasonably that consent was given without having met his/her responsibility to gain consent. Situations involving physical force, violence, threat or intimidation fall under the definition of sexual assault, not sexual harassment, and will be treated as such. Sexual harassment or assault can occur between people of different genders or of the same gender. In some cases, consensual sexual activity occurs before an assault or after an assault.*

These definitions imply that:

- a. Sexual harassment is defined in relation to sexual assault, as a competent verdict of sexual assault (that is, where the intention element has not been proven, what happened constitutes sexual harassment). This leads to a confusing understanding of sexual harassment as it encompasses a variety of things.
- b. Non-physical forms of sexual harassment (grooming, quid pro quo etc.) are not covered in the definition.
- c. Sexual harassment is not overtly named as an abuse of power, which can feed into legitimations of harassment through appeals to ignorance (e.g. “I did not know that she was offended”) and result in the burden of proof, especially regarding consent, being shifted to the complainant.

These questions all need careful consideration in the definitions/conceptualisations of sexual harassment contained in all of the policies.

- 8.** The Staff Disciplinary Procedure includes within it the following as behaviour that would warrant disciplinary action: “abusive or offensive disrespect; rape or attempted rape; offensive behaviour (including swearing or using abusive or harassing language towards others; victimisation or intimidation as contemplated in the LRA); harassment and unfair discrimination; abuse of position/authority (including coercive, abusive or inappropriate use of one’s supervisory or other position of authority against an employee or student”. While some of these descriptions clearly address sexual offences, others are vague. It is recommended that these be amended to highlight sexual harassment and sexual violence as serious misdemeanours.

*Recommendation:* The definitions of rape, sexual assault, and sexual harassment must be construed in a manner that is clear, comprehensive, well-thought out, not contradictory, in line with national legislation, and in no doubt that sexual harassment is an abuse of power. Appendix 10 contains definitions in Criminal Law.

- 9.** Sanctions for various levels of offences are not included in the policies.

*Recommendation:* The policies relevant to sexual harassment should include definitions of all types of sexual offences that are subject to discipline and the corresponding levels of discipline attached to these offences. In line the Criminal Law (Sentencing) Amendment Act 38 of 2007 that “regulate[s] the imposition of discretionary minimum sentences for certain serious offences”, guidelines for sanctions for particular kinds of offences should be outlined in the policy and linked to various levels of discipline and/or levels of offences subject to the Zinn Triad -sanction requires consideration of three factors viz. the crime (the offence), the criminal (the offender), and the interests of society (the interests of the University community). There should therefore

be a prescribed sanction of exclusion and dismissal for rape and sexual assault. In line with the Sexual Offences and Related Matters Amendment Act 32 of 2007, the following should also be considered: (1) whether the alleged perpetrator (a) committed the offence with the intent to gain financially, or receive any favour, benefit, reward, compensation or any other advantage; or (b) gained financially, or received any favour, benefit, reward, compensation or any other advantage; (2) if exclusion is not the sanction, then if practicable and if the convicted person demonstrates the potential to benefit from such, the sanction should include attendance of, and participation in, treatment and/or courses related to sexualities, gender, and violence. The overarching Sexual Offences Policy and all disciplinary codes should include definitions of all types of sexual offences that are subject to discipline. The harshest sanction that the University can implement in terms of its internal disciplinary procedures is exclusion for students, and dismissal for staff. In cases of serious sexual violence, charges in the alternative sufficient for exclusion/dismissal should be considered. Charges must be framed in terms of what there is a reasonable possibility of proving.

- 10.** The policies do not take into consideration whether or not the alleged perpetrator is in an elevated position of power.

*Recommendation:* Future guidelines should acknowledge that offenders may be in positions of authority that provide them with added responsibility in terms of moral behaviour. In addition to general sanctions, guidelines should explicitly address what happens where, for example:

- a.** An alleged student perpetrator is in an elevated position of power because they are a tutor, mentor, house committee member, sub-warden, SRC representative (Suspension from this position while the case is pending and

removal from it found guilty should form part of the list of possible sanctions);

- b. An alleged perpetrator is in an elevated position of power – e.g. a staff member abuses a student, a senior staff member abuses a junior staff member (It is recommended that stiffer penalties should accrue in such instances, in comparison to cases where such differentials are not in place).
- c. There are particular power relations between the parties that suggest that, in addition to the gendered nature of the abuse, the action could be viewed as a hate crime in terms of race, class, ability, religion, or sexual orientation (Stiffer penalties than would accrue in the absence of the hate crime are recommended)

It should be acknowledged that the determination of power differentials in relationships is, in itself, an operation of power. It is recommended that the view of complainant is explicitly elicited in this regard, which may reveal often hidden dimensions of power differentials (e.g. affiliations, familial associations, past links etc. in addition to questions of race, class, ability, religion, sexual orientation mentioned above).

- 11. The policies do not emphasise the multi-faceted nature of consent, including that it can be withdrawn, that absence of non-consent does not imply consent, and that consent needs to be sought rather than assumed.

*Recommendation:* The University, through its policies and through other means, needs to create a culture of consent. Consent must be carefully defined in line with national legislation, and must emphasise the fact that consent may be withdrawn, and that lack of non-consent does not imply consent. It must not be assumed that everyone knows what consent entails exactly and what their responsibility is in terms of obtaining

that consent. Later in this report we deal with the question of affirmative consent campaigns that emphasise that “yes means yes” rather than “no means no” (i.e. the absence of refusal is not necessarily consent).

- 12. According to the Student Disciplinary Code, the decision to prosecute rests with one prosecutor. Procedures for the prosecution of sexual offences are laid out in the Sexual Offences Policy for Students. In terms of this policy, two prosecutors are meant to investigate the report of sexual violence – one male and one female.

*Recommendation:* This is an instance of inconsistency across policies that needs to be rectified in the rewriting of all policies. While sensitivity to the gender category of prosecutors is important, it is equally important to ensure that the prosecutors’ areas of expertise is sexual harassment and that they are au fait with gender theory and gender justice. The University should employ both internal and external prosecutors. Given the sensitive nature of sexual violence that involves rape or bodily harm, it is recommended that these cases be dealt with by external prosecutors. More minor sexual harassment cases can be dealt with by internal prosecutors.

- 13. Policies and procedures are not always easy to locate and are long and cumbersome.

*Recommendation:* Summarised, easy to read documents of the policies should be written. These summary documents should be easily accessible both electronically and in hard copy in spaces that students frequent (e.g. residences, library). As a result of the April protests a RUCConnected Resource was created as a central repository for various pieces of information and resources, as well as advice from staff to staff and with strategies for engaging students in debates about the issues under consideration fruitfully. The RUCConnected site should be further developed with not only resources and information, but also ideas and conversations



about sexual violence and how to deal with these issues in various contexts within the University, including residences and the classroom.

- 14.** The revision of policies and procedures along the lines indicated above and below is a matter of urgency.

*Recommendation:* The Manager of the Sexual Harassment Office should be tasked with writing a comprehensive Sexual Offences Policy and with revising the other policies in conjunction with relevant people in other divisions (notably Human Resources and Student Affairs) for the sake of consistency. However, if the appointment of such a person is delayed, an ad hoc appointment of somebody to perform this work should be considered.

## ISSUES WITH SPECIFIC POLICIES

### Student Disciplinary Code

- 15.** Section 3 of this code deals with the option of mediation. Mediation is available for cases of sexual harassment. Mediation involves the resolution of conflict between two parties through the facilitation of a trained mediator, while restorative justice is about working through harm and remorse, using a restorative justice process and facilitated by a trained restorative justice officer. In restorative justice, rather than concentrating on guilt or a verdict, the primary concern is about harm and remorse. No particular sanction is imposed. Rather a process is instituted whereby the accused acknowledges the harm caused, and engages in an agreed upon set of amends.

*Recommendation:* It is recommended that a clear distinction be made between mediation and restorative justice; it may be inappropriate for more serious cases and cases where there is a large power differential to be resolved in this manner as mediation implies resolution of a conflict rather than a form of justice. In cases

of sexual violence and in cases where the complainant and accused occupy positions that suggest power differentials, restorative justice may be more appropriate.

- 16.** Section s3.7 of the code states “where the dispute is settled by mediation, the complainant/s will waive his/her/their right to request to proceed with disciplinary action.”

*Recommendation:* During mediation, it should be made clear that a mediation agreement is binding and that failure to abide by the agreement could result in disciplinary action. In addition, mediation agreements should include provisions that any form of unacceptable behaviour in which a party engaged should not be repeated with other parties. Should this occur, it would constitute a breach of the mediation agreement and could be used in evidence.

- 17.** Procedure in hearing before a Proctor or a Disciplinary Board for Sexual Offences: The Proctor or Disciplinary Board has quite a wide discretion in terms of the sanctions they can give – nothing is prescribed and they even have the authority to give “any other appropriate sanction” which is not listed under the possible sanctions. No verdict corresponds with a specific sanction.

*Recommendation:* This is too wide a discretion. In line the Criminal Law (Sentencing) Amendment Act 38 of 2007 that “regulate[s] the imposition of discretionary minimum sentences for certain serious offences”, there should therefore be a prescribed sanction of exclusion for rape and sexual assault subject to consideration of the Zinn Triad - sanction requires consideration of three factors viz. the crime (the offence), the criminal (the offender), and the interests of society (the interests of the University community). In line with the Sexual Offences and Related Matters Amendment Act 32 of 2007, the following should also be considered: (1) whether the alleged perpetrator (a) committed the offence with the intent to gain financially, or receive

any favour, benefit, reward, compensation or any other advantage; or (b) gained financially, or received any favour, benefit, reward, compensation or any other advantage; (2) if exclusion is not the sanction, then if practicable and if the convicted person demonstrates the potential to benefit from such, the sanction should include attendance of, and participation in, treatment and/or courses related to sexualities, gender, and violence.

- 18.** According to section 7.28 “where a student has been acquitted due to lack of mental capacity, the student may not remain at the University or return to the University without undergoing a full psychiatric assessment, the findings of which must confirm that the student is of sound mind.”

*Recommendation:* Remembering that the University must undertake to ensure that all students and staff members are protected from harm, and that psychiatric assessments are based on clinical judgement, it is recommended that this be changed to: “where a student has been acquitted due to lack of mental capacity, the student may not remain at the University or return to the University without undergoing a full psychiatric or clinical psychological assessment by a person designated by the University. The student may supplement this assessment with a privately obtained one. The assessment must confirm that the student is stable, unlikely to be a harm to others or self, and must contain information on the treatment that s/he has undergone or is undergoing. Mechanisms of ongoing treatment and compliance with this treatment while on campus should be included”.

- 19.** Sexual offences are heard by a Disciplinary Board for Sexual Offences, a panel of three people appointed by the Vice-Chancellor: a Proctor, a member of academic staff in the Faculty of Law (including the Rhodes University Law Clinic) and a member of the Senate Disciplinary Committee. While having members on this Board with a legal background is

important, the constitution of the Board means that it is entirely possible that all three people will be drawn from the Law Faculty (a Faculty with 16 full-time staff members). Even if the Senate Disciplinary Committee member is not drawn from the Law Faculty (many of these members are from the Law Faculty), two of the three members will be from this Faculty. This has several potential problems:

- a.** A relatively small Law Faculty is given significant power in shaping conceptions of ‘right law’ on the campus;
- b.** The central role of the Law Faculty in disciplinary procedures can create internal conflicts, not least because the lecturers play multiple roles (prosecutors, proctors, advisors, lecturers);
- c.** There are implications when the complaints emanate from within the Law Faculty itself;
- d.** The dominance of legal people means that gender/sexuality issues may be backgrounded.

While we appreciate that the model of using internal Law Faculty members means that the University saves on money, the above implications need to be balanced against financial imperatives.

*Recommendation:* This structure should be retained but the member of the Senate Disciplinary Committee member should have a background in gender-based violence and a sensitivity to psychological issues. Should no such person be available on the Senate Disciplinary Committee, the Vice Chancellor should approach another staff member of the University community. In addition, it is recommended that at least two of the members are of the same gender as the complainant. Where the complaint emanates from the Law Faculty itself, no person internal to the Law Faculty should form part of the Disciplinary Board.

**20.** Point 6.2 (c) of the policy indicates that “the decision to prosecute a matter as a sexual offence shall be determined by the Prosecutor”. This takes the discretion away from the complainant who has no recourse to other internal retributive justice measures (in external retributive justice, where the National Prosecuting Authority decides to not proceed with charges, individuals have the option of instigating a civil claim).

*Recommendation:* It is recommended that, while the Prosecutor retains the final decision, policy indicates that the complainant’s wishes must be carefully considered. The question of the assistance of the Fairness Forum in making these decisions, as outlined in the Policy on Eradicating Unfair Discrimination and Harassment needs further consideration (see further discussion below regarding recommendations with respect to the pre-enquiry phase).

**21.** The policies make provision for LoAs, no contact order, and suspension orders, but it is not made explicit that these rights should be emphasized to the complainant.

*Recommendation:* All points of contact with the complainant (including reporting office, support advocates, and prosecutors) should emphasise the protective measures to which the complainant has access, as well as the procedures that are followed in obtaining these orders.

### Sexual Offences Policy for Students

**22.** One of the policy objectives is to “better inform the University community about rape and other forms of sexual assault.” The recent protests show that the University has been unsuccessful at this.

*Recommendation:* The work of the curriculum and systemic issues task teams is important in highlighting how this may be better effected.

Recommendations will follow in Part 3 to 8 of this document.

**23.** This policy assumes that students report their assault immediately. It deals rightly with instances where the complainant is willing and psychologically able to report immediately. However, it fails those who are unwilling or unable to report their assault immediately, or those to do not want to report or record their assault directly to or in the presence of someone else.

*Recommendation:* A possible solution to this is an online reporting system, which is dealt with in Part 3 of this report.

**24.** The policy states that no-contact orders are issued by the Director: Student Affairs. This is inaccurate as the orders are issued by the Vice-Chancellor.

*Recommendation:* This inaccuracy needs be fixed. There also needs to be some explanation as to the basis on which a no-contact order is made as well as how it restricts the person against whom the complaint was lodged. In the event that a no contact order is issued, the Sexual Harassment Office needs to notify the relevant people (e.g. wardens, HoDs, lecturers) so that arrangements can be made (e.g. if the complainant and accused are in the same tutorial group or residence). These relevant people must be informed of the necessity of the no contact order remaining confidential. In addition, a copy of the no contact order should be sent to the Campus Protection Unit. The complainant needs to be made aware that s/he may call the CPU if s/he feels that the accused is in breach of the no contact order. The accused equally needs to be made aware that a breach will not be tolerated and will be followed up through disciplinary procedures. The complainant needs to know that CPU cannot effect an arrest, but can, if called, witness the breach, be present to decrease any escalation of the event into violence, and warn



the accused of the consequences of a breach of a no contact order. The complainant needs to know how to lodge a complaint of breach of a no contact order.

If someone is convicted of a sexual offence in a court of law, but given a suspended or limited sentence, and they permitted to return to the University, the complainant should be alerted to this and the possibility of a no contact order discussed with him/her. Clear guidelines should be laid out for official communication of such disciplinary action to all parties concerned in effectively implementing the action. A no contact order without this attendant action is meaningless and amounts to an empty gesture. It must be clear that a no contact order is binding, and that hall wardens, HoDs etc. cannot overturn such an order.

- 25.** The policy states that prosecutors may not discontinue an investigation on the basis of various grounds.

*Recommendation:* These grounds should also include the accused's standing in the University and wider community, their academic record, and their academic/professional future etc.

- 26.** The policy does not deal explicitly with what happens if the complainant is a student and the alleged perpetrator is a staff member or vice versa.

*Recommendation:* This needs to be rectified. A comprehensive University Sexual Offences Policy must include this.

### Sexual Offences Protocol

- 27.** This policy makes reference to incidents that might occur between students and staff members but does not give much information other than stating that "the Dean of Students' Office can arrange for the Human Resources Division to institute a disciplinary enquiry".

*Recommendation:* Further detail on how incidents that occur between staff and students are dealt with is required in all of the policies. In addition, reference to the protocol governing intimate relationships between staff and students needs to be referred to and integrated into all policies.

### Grievance Procedure

- 28.** This procedure does not deal with what kinds of grievances are relevant or applicable.

*Recommendation:* The Grievance Procedure should be updated to alert staff to the fact that they are entitled to initiate a grievance procedure on the basis of sexual harassment.

### Staff Disciplinary Procedure

- 29.** This policy provides a definition of harassment and unfair discrimination but does not outline sexual assault/rape/harassment explicitly. Abuse of position and authority is mentioned. Lesser forms of harassment and/or unfair discrimination are Category A offences; more serious forms of harassment, hate speech and/or unfair discrimination are Category B offences; rape, or attempted rape, sexual offense of any kind, and sexually oriented requests as a reward are Category C offences.

*Recommendation:* Sexual harassment and sexual assault need to be defined in this policy. There is room for misinterpretation in terms of the level or category of the offence. Although sexual offences of any kind are noted as Category C, these are not excluded from harassment in Category A. Including all sexual offences in Category C may result in complainants not wishing to report more minor cases of sexual harassment as they do not wish the harsh sanctions attached to Category C (dismissal) to be meted out to the accused. Nevertheless, we feel that sexual harassment of any sort should be seen as a "more serious form

of harassment” and dealt with under Category B (serious offences). Sexual violence and assault and severe sexual harassment should be dealt with under Category C. This is in line with the zero tolerance recommendation made above.

## Policy on Eradicating Unfair Discrimination and Harassment

**30.** The policy states that “it should be read in conjunction with the Sexual Offences Policy which outlines issues related to sexual offences and mechanisms to deal with such complaints.” As such it does not deal explicitly with sexual offences. Nevertheless there are a number of procedures that are pertinent to dealing with sexual offences.

*Recommendation:* Consideration should be given to revising the Policy on Eradicating Unfair Discrimination and Harassment along the lines suggested in this report. This policy deals with discrimination and harassment beyond sexual harassment, but certainly includes sexual harassment. The revised Sexual Offences Policy could be incorporated into this revised policy, but most certainly should dovetail with this policy in terms of processes and procedures.

**31.** The Fairness Forum referred to in the Policy on Eradicating Unfair Discrimination and Harassment and the Staff Disciplinary Procedure is meant to be convened prior to the initiation of disciplinary processes. The exact role of the Fairness Forum is not clear. In one instance it is indicated that the Fairness Forum “plays an advisory role” to the University prosecutor. In another, it is stated that the Fairness Forum “shall determine if there is a prima facie evidence to proceed with a disciplinary hearing”. It has been reported by the prosecutors that the Fairness Forum does not operate optimally and is an additional hurdle in the process. Discussions on the role of the Fairness Forum have revealed some difficulty with its functioning. For example, people on the

Forum do not have contact with the complainant, and therefore cannot judge her/his preparedness to go through particular processes. Moreover, the members do not always understand the legal ramifications of particular decisions.

*Recommendation:* It is recommended that this process be revisited. Firstly, the notion of a “Fairness Forum” is, in and of itself, problematic, as decisions made in the preliminary process prior to prosecution may not necessarily be based on fairness at all, but rather lack of evidence, wishes of the complainant etc. Secondly, a pre-enquiry phase needs to be efficient. We, therefore, recommend that a pre-enquiry phase is dealt with, in the first instance, by a small committee, and only by a broader advisory committee if necessary. It is recommended that the small pre-enquiry committee consists of: one prosecutor, the Manager of the Sexual Harassment Office, and one other person from Human Resources, Directorate of Student Affairs, or the Equity and Institutional Culture Office, depending on the nature of the alleged offence. If this committee feels that the case is of such a nature that additional advice would be useful, or if agreement cannot be reached, this committee may call on the larger advisory committee or on external legal advice, including the National Prosecuting Authority. In cases where a pre-enquiry advisory committee is deemed necessary, the policy should provide guidance about the constitution of such a committee. This requires revision as the current policy which refers to reporting officers, who no longer exist. It is recommended that there is a balance in terms of gender and that a number of members are sufficiently steeped in the legal aspects as well as gender issues to make reasoned input. In cases pertaining to students, it would be useful if members included the Director of Student Affairs or delegate, and in the case pertaining to staff, a delegated person from HR.

## RETRIBUTIVE JUSTICE

A thorough and rigorous system of retributive justice should be put in place and supported by a caring and non-judgemental support base (see recommendations in respect of physical and psychological safe spaces). As indicated above, various possible avenues should be made available for the effective exercise of retributive justice. These avenues would include:

- a. Criminal justice system only: the complainant decides to lay a criminal charge without laying a formal complaint within the University system;
- b. Criminal justice system followed by disciplinary system: complainant lays a charge with the criminal justice system, which, depending on the outcome of this process is followed by a disciplinary hearing at the University. The Student Disciplinary Code provides that “[a] student who is convicted of any crime in a court of law shall be rebuttably presumed to have committed the crime(s) of which they have been found guilty”. However, if they are not found guilty of the crime, but there is sufficient evidence for an internal charge of misconduct, a disciplinary hearing may proceed, provided that it is noted that while certain evidence (such as a medical report) used in criminal proceedings can be used as evidence, any testimony given in the criminal prosecution cannot be reused. Testimony would have to be delivered anew;
- c. Criminal justice system and disciplinary system are set in motion simultaneously: the two streams of prosecution can run concurrently and do not interfere with one another. They carry different burdens of proof from one another and they are done via two different and separate channels. Furthermore, the verdict in one does not affect the verdict in the other, and the charges are not identical;

- d. Complainant lays a disciplinary charge only.

In terms of (a) above, Advocate Turner of the National Prosecuting Authority indicates that the police investigation takes about six weeks. She indicates that the NPA will communicate their decision about to whether to proceed with prosecution with the University. She recommends that the University consider issuing no contact orders and/or suspension orders on the charge being laid with the CJS. If the prosecution does not proceed, the NPA will make any complainant statements and medical reports available to the University in case they wish to proceed with a disciplinary case, as in (b) above. She questions the word “rebuttably” above, as this seems to suggest that the accused may rebut the court’s judgement. This word may need to be reviewed in the context of the disciplinary codes.

It must be noted that there has been some dispute concerning (b) to (d) above. The Dean of the Law Faculty indicates the following:

The task team seems to suggest that the University disciplinary system should retain jurisdiction to prosecute sexual offences, including rape. I do not support the retention of the University’s jurisdiction over the statutory offence of rape for the following reasons:

- a. Rape is a serious criminal offence that should, insofar as retributive justice is concerned, be met with the full might of the law. An offender, upon conviction by competent court, should face the serious consequences of his/her actions, likely that would be imprisonment. Exclusion from the University, even for a long period of time, is not an adequate penalty for a conviction on such a serious charge. The University will not hear cases of murder and no one seems to suggest that it should. Rape is of a similar serious nature.
- b. The University does not have the adequate resources to prosecute these offences since we do not have access to specially trained

police officers, prosecutors, laboratoria to process evidence, etc.

- c. At most, assault with the intention to commit a sexual offence, sexual offences excluding any form of penetration or sexual harassment could be prosecuted internally, but the institution should leave the most serious sexual violation in the hands of the state which can prosecute these more effectively and appropriately.

The SVTT's response to this is that the criminal justice (CJS) system and the University disciplinary procedures are very different and parallel systems: the CJS system punishes crimes and needs to prove that a crime is committed beyond a reasonable doubt for conviction. The internal disciplinary system punishes offences that contravene the agreed upon rules laid out by the University, in other words various forms of misconduct, ranging from minor misconduct to gross misconduct. Proof, in this instance, is on a civil rather than criminal standard – on a balance of probabilities or preponderance of evidence.

In light of the above concern, we posed the following question to Prof Dugard of the University of the Witwatersrand: "It has been suggested that the University should not prosecute rape as it is a serious criminal offense that should be reported to the police for criminal investigation. In cases where the complainant does not wish to press charges through the criminal justice system, should the institution allow for internal disciplinary procedures to be instituted at the complainant's request? What is the obligation of the University, under the Criminal Procedures Act in terms of reporting the case to SAPS?" Her response was as follows:

A University should concern itself only with internal processes. It cannot rely on victims reporting matters to the police or the CJS dealing with them..... At Wits, in line with advice from gender activists we do not encourage victims

to go to the police (nor do we discourage them from doing so). If a victim wishes to go to the police we offer her support in doing so. But in the three years of operating a Gender Equity Office (GEO) not one victim has wanted to go to the police. In creating internal systems for dealing with rape and other Gender-Based Harm (GBH) you are doing it as much for Rhodes as for any complainant. In terms of obligations to report to the police – only if the victim is a minor. Otherwise there is no obligation. We do not 'charge' perpetrators as though we are the police / state. Rather we have an inquisitorial system without a prosecutor and the harm is misconduct i.e. we don't pretend to be charging for the crime of rape.

In addition, the current University prosecutor advises us that in 20 years of prosecuting, DNA samples have not been needed, and medical evidence has been needed in 2 to 3 cases. This means that the resources referred to in the Dean of Law's submission are not as substantial as required in criminal cases.

In a meeting with Advocate Turner of the National Prosecuting Authority, she agreed that the CJS and the internal disciplinary processes are separate, and that while the NPA would encourage complainants to report to the CJS, nobody can be forced to lay a charge. She argued that in cases where there was physical injury or aggravating circumstances (e.g. breaking in to commit the offence, or the offence was accompanied by robbery), the complainant should be strongly advised to report it to the CJS. In cases referred to the CJS, the complainant may indicate that s/he does not wish to proceed with the case, but the decision rests with the NPA. The NPA will, however, consider his/her reasons for wishing to withdraw from the case. In these cases, the evidence is kept and this can assist if there are further allegations against the same accused. The response from Prof Judge on this matter is as follows (Prof Dugard and Prof Judge's full responses are contained in Appendix 3):

On the matter of whether the University disciplinary system should prosecute rape, I am of the opinion that it should. Given our abysmal conviction rates, issues of secondary victimisation, and the slow pace of rape cases proceeding within the court system, it seems untenable that internal disciplinary processes be put on hold and the University's own responsibility to act be put in abeyance. Of course, it wouldn't be pursued as 'a criminal case' so it would follow a different course of investigation but certainly, in so far as the alleged action breaches University policy, it must be acted upon.

This sentiment was echoed by Adv Pithey of the Women's Legal Centre.

*Recommendation:* Mechanisms of support for the administration of external retributive justice need to be established. These include, but are not limited to:

- » Providing information on the processes to be followed for the magistrate's court to issue a protection order and support in navigating such processes should the complainant opt for this;
- » Assisting the complainant in obtaining legal counsel;
- » Liaison with the National Prosecuting Authority regarding the case, including information about the possibility of obtaining no contact and suspension orders on the basis of the complaint being laid through the CJS;
- » Advocacy support officers or peers providing support (e.g. information on processes; accompanying complainant to court etc.).

*Recommendation:* In line with these responses and our own understanding of the situation, we recommend that the offence of rape continues to be charged through the internal disciplinary procedures as serious misconduct. The University should NOT coerce complainants into laying charges through the CJS should they not wish to. As indicated above,

support for those who wish to lay charges should be provided, but no complainant should be left without recourse to internal disciplinary procedures should they not wish to proceed with laying a charge through the CJS. To support our position, we asked other universities whether they prosecute rape as misconduct. All universities we approached indicated that they do. The results can be seen in Appendix 5.

In terms of (c) above, the current prosecutors indicate the following: In more than one case where students have laid complaints of sexual assault simultaneously with Rhodes and with the South African Police Service (SAPS), Rhodes has been requested by the National Prosecuting Authority (NPA) not to investigate as this has the potential of jeopardising the State's case. Evidence in one case might differ to some extent to evidence in the other case, thereby providing powerful ammunition for cross-examination.

The SVTT, however, is of the opinion that University prosecutors should consult with the NPA regarding a case, but that there should be no absolute barrier to proceeding simultaneously. We base this on input from Advocate Turner, and the following input from Prof Klerck, which was confirmed by Prof Dugard of the University of the Witwatersrand:

While I could not find any case law directly relevant to students accused of sexual assault/rape (admittedly, my search was limited), in the field of labour law the principles are relatively clear. The claim that (internal) disciplinary proceedings must be delayed until the conclusion of (external) criminal proceedings are usually premised on the double jeopardy rule, the sub-judice principle, or the right against self-incrimination. None of these objections has consistently persuaded our courts. Lawyers are acutely aware of the conceptually separate processes of, for example, a criminal trial for rape and an internal disciplinary hearing for gross misconduct. Below are some examples and points of argument (while many of these apply



to employees, I am not aware of any compelling reason why they are not equally applicable to students).

Further details of Prof Klerck's argument are contained in Appendix 4. We recommend that the possibility of laying simultaneous charges should remain in policy, but that this should be supplemented with the requirement that prosecutors liaise with the National Prosecuting Agency. In addition, Advocate Turner from the NPA indicated that reporting officers should be trained to take proper statements under oath and follow correct procedures in terms of obtaining medical examinations, even if the complainant does not wish to proceed with the case. Apart from the complainant's own health needs, following strict and correct procedures could help in opening a case docket and in the case holding up in court, should the complainant decide to proceed through the CJS at a later stage. If a complainant wishes to be examined at a state hospital, then a case docket is needed.

## REMEDIAL DISCUSSIONS

If the complainant wishes to remain anonymous, or does not wish to pursue any of the mechanisms available to him/her, and if the staff of the Sexual Harassment Office, the prosecutor, and/or support advocates feel that the complaint is of a serious nature, or if multiple complaints have been made about a particular accused, a process of guidance may be suggested. This involves staff of the Sexual Harassment Office having a discussion with the alleged perpetrator indicating the certain forms of behaviour constitute sexual harassment and violence, and are unacceptable. The discussion proceeds along the lines of indicating that a complaint has been laid, that charges are not being brought against him/her at this stage, that the discussion is not an accusation per se, but to the extent that the accused has been involved in such behaviour (which s/he will be aware of), this must

cease forthwith. The alleged perpetrator will be provided with a copy of the Sexual Offences Policy. The discussion should proceed without revealing the identity of the complainant or any aspects of the complaint from which the alleged perpetrator could identify the complainant. In proceeding with such a discussion, the Sexual Harassment Office should consider the following relevant information including but not limited to the following:

- a. Any risk to the complainant;
- b. Risks to others in the institution;
- c. The severity of the harm;
- d. The history of the alleged perpetrator with regard to previous cases and complaints of sexual offences.

If the Manager of the Sexual Harassment Officer believes that such a discussion should take place, the complainant must be advised. Furthermore, and in consultation with the complainant, a written recommendation must be prepared and referred to the Vice-Chancellor for a final decision. The recommendation should include the following:

- a. A description of the sexual offence;
- b. The complainant's reason(s) for not wanting to pursue the matter further, be called as a witness and/or remain anonymous;
- c. Reasons why the Sexual Harassment Office supports proceeding with the Remedial Discussion;
- d. How the identity of the complainant will be protected.

Remedial discussions serve the purpose of alerting alleged perpetrators to the unacceptable nature of such behaviour, but also, importantly, communicates to the University community at large the University's zero tolerance of any forms of sexual harassment.

## RESTORATIVE JUSTICE

The primary focus of restorative justice is on harm, and a collective problem solving approach is used to seek restoration to the extent that is possible.

This is not mediation and does not absolve the alleged perpetrator from the consequences of disciplinary and/or criminal proceedings. The primary aim is an acknowledgement of harm and making amends. It may happen that the accused acknowledges guilt in the process, but it must be noted that such an acknowledgement is unlikely to be admissible in a court of law because of the right not to self-incriminate. It is recommended that strong support be in place so that the complainant is aware that if the restorative justice process is undertaken and guilt is admitted by the accused, this admission might not be helpful to the complainant in a court of law. Having said this, should the restorative process be unsuccessful, the complainant will still be able to pursue a disciplinary or criminal case.

The following principles will need to be in place – as emphasized through the practice of the RESTORE programmes and other research (e.g. Daly, 2006) - and include the following:

- a. The complainant must request or consent to the programme and the accused must consent to the process;
- b. It should be recognised that power imbalances are implicit in acts of sexual violence; it is important to ensure that the accused and/or his/her friends or family do not use the meeting to re-victimize the complainant, manipulate or derail the pre-conference meetings;
- c. Restorative justice facilitators therefore need to be trained and highly skilled. They need to ensure that their own opinions and feelings do not influence their facilitation of the restorative justice process, as all parties need to trust them and feel safe in the conference. Thus,

they need to be impartial, but they cannot be indifferent to the circumstances as they need to remain alert to mitigating the power dynamics within the conference;

- d. A complainant should retain the right to have the sexual violation prosecuted within the criminal justice system; safeguards such as confidentiality agreements should be put in place that would allow a case to be referred back to the conventional prosecution system if an accused should refuse to comply with the process, or if a facilitator or counsellor has concerns about the appropriateness of the conferences;
- e. Conferences should be reserved for (alleged) perpetrators who are likely to benefit from them (i.e. alleged perpetrators who accept responsibility for that which they are accused of and show some remorse), rather than those who believe that s/he is not guilty or that denial will result in acquittal;
- f. Those accused should not be given the sense that a restorative justice process is a 'lesser' route of implementing justice, which therefore diminishes his/her culpability;
- g. A written redress agreement can be signed, which holds the accused accountable for the actions after the conference;
- h. Ongoing monitoring and monthly reports may be agreed upon to be overseen by the Sexual Harassment Office;
- i. Decision-making criteria for points (d) to (h) need to be articulated and included as part of the restorative process.

Based on the implementation of restorative justice programmes in relation to sexual violence in other contexts – in particular various forms of the RESTORE programme (Hopkins & Koss, 2005; Julich, Buttle, Cummins, & Freeborn, 2010; Kasparian, 2014;

Koss & Achilles, 2008; Koss, Bachar & Hopkins, 2003) – the following process is proposed for restorative justice:

- a.** Thorough pre-conference preparation and risk assessment - the actual meeting is preceded by weeks of preparation including informed consent of all parties;
- b.** The conference meeting is attended by the complainant, his/her selected family and friends, and the accused and his/her selected family and friends;
- c.** The conference is facilitated by a person trained in restorative justice. The facilitator follows a protocol to ensure that key elements are discussed, that talk is non-abusive, and that everybody has a chance to speak;
- d.** Elements of the conference should include:
  - Establish common ground: create a space that encourages the full participation of responding students/staff and harmed parties;
  - Identify the impact of the violation: work with harmed parties and responding students to figure out what harm was done. Pay attention to personal harm (physical or emotional), material harm (lost or damaged property), and communal harm (material harm to community spaces or intangible harms, such as public fear and anger). Processes may include: the accused describing his/her actions and taking responsibility for them, the complainant describing the impact of the sexual violence on him/her, the family and friends providing their input, and the accused responding to and acknowledging the complainant's story of harm;
  - Strategize restoration and reintegration: formalisation of the complainant-driven programme of action in which the accused accepts a plan to make amends, to repair (as far as is possible) the harms to complainant,

family and friends, and community, and to undertake personal changes to ensure that a recurrence does not take place;

- Build support systems to ensure success: what mechanisms need to be put in place to ensure the successful implementation of the restorative actions to be further explored and articulated in the policy.

It is recommended that the University seek funding or make funding available to bring experts in to assist the University with thinking through and implementing a restorative justice process.

## REPARATIVE JUSTICE

Reparative justice is associated with restitution or recompense for an injustice - when a person or community's rights, and his/her/their interests are harmed, then this injustice needs to be remedied (Thompson, 2002). The reparative approach considers not only access to support but also the cost thereof.

Parts 3 to 8 of this document address the reparative justice component of the three-pronged approach in more detail. From the discussion above, it is recommended that the following principles of reparative justice are adhered to:

- 1.** Policies and practices will have to facilitate the autonomous decision-making of the complainant;
- 2.** Those ensuring that access to support must be trusted so that complainants feel safe and contained during the process;
- 3.** The costs involved to complainants and their families and how these can be minimised should be considered through, for example the provision of healthcare services, safe spaces both physical and psychological (debriefing spaces), social support spaces, legal services, generous leave of absence (students and staff), special catch-up tests and examinations, and generous return policies (should a student take a temporary leave of absence from University).



# PART 3

## SAFE SPACES



### Introduction

**Safe spaces need to be created for the complainants of sexual violence. Sub-task team 2 interpreted the idea of 'safe spaces' broadly and discussed this notion in relation to:**

- 1. Physical safe spaces** – such as a designated safe space for a complainant to move into temporarily if s/he wishes to move out of his/her residence or digs after a sexual assault, and safe spaces where survivors could meet support advocates. We also considered ways of ensuring that residences remain safe spaces for all.
- 2. Reporting sexual assault in safety** – sexual violence is typically underreported, and when it is reported this is often done long after the event. Ideally reporting needs to be encouraged. For reporting to increase students need to feel that the response they get to reporting will be appropriate, efficient, and safe in the sense that secondary trauma will be minimised.
- 3. Online safe spaces** – for reporting sexual assault or for getting support from a peer supporter or counsellor.
- 4. Safe spaces during protest or activism** - whilst protest action is by its very nature fluid and disruptive, the task team considered ways in which we could support the well-being of complainants in relation to protest action (particularly protests relating to sexual violence) and to create or maintain safe spaces even in the midst of disruption. Although complainants might acknowledge the need for protest action and might support the protest, the nature of the protest might leave them feeling unsafe and might trigger a traumatic response. At the very least, halls of residence should be maintained as safe spaces where students should not have to be confronted with protest action and where their choice not to participate should be respected and accepted without challenge. We recommend that this be included in House Committee training and that House Committees commit to supporting the well-being of all in their residences. This will be taken up further Part 4 of this document.

**5. A broader sense of ‘safety’** - making the University ‘culturally’ a safe space where complainants can speak about a recent or more distant experience of sexual assault or sexual harassment and feel safe to speak because the responses they receive from staff or students will be appropriate.

.....

## PHYSICAL SAFE SPACES

Students who have been sexually assaulted may at times need to be moved out of their residences or digs for a short period immediately after the assault. The current situation is that these students can either be given a bed at the Health Care Centre for a short period or they can be placed in accommodation that is usually not used for students (such as the rooms in the Continuing Education Centre or in-transit houses). These students also need to be provided with meals either in a dining hall or in the form of packed meals. These arrangements are usually made through the Conference Office.

We recommend that a dedicated safe space be made available for complainants/survivors of sexual assault. We recommend the following in terms of providing a physical safe space for complainants:

1. There should be **no pressure** on the complainant to move out of his/her residence or digs. The safe space should only be used if that is the wish of the complainant. If students have a support system and friends in their residence, for example, they may be better off remaining in residence.
2. There should be beds **for more than one** person in case the complainant wants to have a friend or family member stay with them.
3. There should be a time limit on the stay in the safe space. We recommend two weeks as the maximum stay.
4. Keys to the safe space should be kept at Campus Protection Unit (CPU) so that they can be accessed by the person to whom the sexual assault is reported.

They should not be labelled with an address but rather just as ‘safe space’ keys.

5. There should be a warden/sub-warden, who is aware of what the space is being used for, who can help the student settle in and provide them with any practical help that they need.
6. Packed meals should be provided. There needs to be a system in place (over weekends as well as during the week) to make this possible.
7. In some cases it might also be necessary to provide the student with a care pack (towels, some toiletries, tea and coffee, sanitary pads etc.) and these should be made up and be on hand when required.

The task team has identified a space that we think is suitable for this purpose. The place will not be identified in the report so that it does not become widely known. The space is already habitable but unused. It is a secure space. It would just need some more furniture to be useable.

## REPORTING OFFICERS

Currently, the Harassment Office falls under the mandate of the Manager of Student Wellness. At the beginning of 2014 the Dean of Students Division underwent review. One of the recommendations of the Review Committee was that staff and student harassment, unfair discrimination, or sexual assault complaints would be reported at the Counselling Centre to Mrs Nomangwane Mrwetyana.

The management of harassment currently follows the following process - once the complainant has reported an incident/experience of any form of harassment, four options can be considered.

The complainant is asked to select the option that he/she prefers in order to resolve and or address the harassment. They are as follows:

- » **Option 1:** Report the incident for recording purposes - no further action is requested – the incident is merely noted with the Harassment Office;
- » **Option 2:** Request that the alleged perpetrator be called in and be strongly advised to change the behavior;
- » **Option 3:** Mediation - the complainant chooses a mediator of his/ her choice from the list of RU trained mediators. The Manager of Student Wellness arranges the mediation process with all parties concerned. This option can only be selected if both parties agree to mediation;
- » **Option 4:** Disciplinary action.

**Students:** The Manager Student Wellness refers the complaint to Gordon Barker and Sarah Driver if a disciplinary process is chosen by a student complainant. The ultimate decision to prosecute or not is made by the Prosecutors although the wishes of the complainant are taken into account.

**Staff:** All level 4 HR complaints are referred to Cecil Peters at HR.

Confidentiality is observed as required by the Health Professions Council of South Africa. NB: If safety is a concern: A no contact order can only be issued by the Vice Chancellor. Alternatively the complainant can apply for a Protection Order at the Magistrate's Court.

To report a complaint of harassment or sexual assault to Mrs Mrwetyana, an appointment can be made at the Counselling Centre, Steve Biko Building: Tel: 046 603 7070 or an email can be sent to harassment@ru.ac.za

Ms Mrwetyana has been the reporting officer since this arrangement was implemented on 1 January 2015. In this time it has become apparent that there

are serious shortcomings to this arrangement and Ms Mrwetyana has requested that this be reviewed.

### Strengths of current harassment procedures

1. Ms Mrwetyana is a registered psychologist. Further, Ms Green (also a psychologist) assists when Ms Mrwetyana is unavailable;
2. The counselling skills of the Harassment Officer provides required containment and emotional support when student/staff member is reporting a case of harassment;
3. The importance of agency and autonomy of the client is respected and the client is not forced or coerced into taking a particular course of action;
4. Confidentiality is guaranteed due to the reporting officer's professional registration as a psychologist;
5. Ms Mrwetyana is aware of the counselling resources available 24/7 at the Counselling Centre and Health Care Centre as well as of all referral resources available at Rhodes University and within the broader community;
6. Referral to Legal Aid Clinic has been useful, even before consulting with University prosecutors.

### Limitations and points to improve

1. Limited legal background of a psychologist limits her ability to provide important knowledge required by students/staff when reporting harassment. One question often asked is, "Do you think there is a case?";
2. As a psychologist, the current reporting officer is ethically bound to engage with a complainant in a way that promotes their well-being at all times. This may be in conflict with the types of questions she is required to ask and the kinds of detailed information she is required to elicit

within a reporting interview;

3. Some students have said that they feel uncomfortable speaking to Ms Mrwetyana about a sexual assault because they relate to her as a mother figure and it is culturally inappropriate for them to be discussing details of sexual acts with someone from an older generation;
4. Lack of capacity with current arrangement with only one appointed person to manage all harassment reporting. Currently Ms Green assists if Ms Mrwetyana is on leave or unavailable. Administration involved in managing cases and arranging mediation is time consuming;
5. Lack of clarity around responsibility for policy development which is compounded by limited knowledge of legal procedures within Rhodes University and within the broader legal system of South Africa;
6. The Harassment Policy does not correlate adequately with HR policies. For example, in the instance of a report of harassment by a student against a staff member - there is a disjuncture between HR procedures and policy and procedures relating to students;
7. Due to the reporting officer's professional registration as a psychologist, keeping statistics that are published for public consumption is problematic as confidentiality cannot be guaranteed with the release of these statistics. This has been an ongoing criticism of the Harassment Office viz. that statistics of sexual assault and rape are not available.

*Recommendation:* Harassment should be removed from the responsibility of the Manager of Student Wellness as a psychologist at the Counselling Centre due to various ethical dilemmas that have been evoked and which could be seriously problematic in future if not prevented. Instead, as noted above,

the task team recommends the establishment of a separate Sexual Harassment Office should be established.

### Online Reporting System

Callisto is a digital rape reporting system which is currently being used in some US colleges.

Here is the link to a TED talk about this programme:

[The reporting system that sexual assault survivors want: http://www.ted.com/talks/jessica\\_ladd\\_the\\_reporting\\_system\\_that\\_sexual\\_assault\\_survivors\\_want?utm\\_source=tcdcomshare&utm\\_medium=email&utm\\_campaign=tcdspread](http://www.ted.com/talks/jessica_ladd_the_reporting_system_that_sexual_assault_survivors_want?utm_source=tcdcomshare&utm_medium=email&utm_campaign=tcdspread)

This quote from the talk describes the motivation behind creating this software. Talking to college students it became clear that:

*“what they wish they’d had in college is pretty simple; they wanted a website, one they could use at the time and place that felt safest to them with clearly written information about their reporting options, with the ability to electronically report their assault, rather than having the first step to go in and talk to someone who may or may not believe them. With the option to create a secure, timestamped document of what happened to them, preserving evidence even if they don’t want to report yet. And lastly, and perhaps most critically, with the ability to report their assault only if someone else reported the same assailant. You see, knowing that you weren’t the only one changes everything. It changes the way you frame your own experience, it changes the way you think about your perpetrator, it means that if you do come forward, you’ll have someone else’s back and they’ll have yours.”*

The key point about this system is that it flags repeat

offenders<sup>1</sup> which, if acted upon, can prevent the person committing more rapes. A decision would need to be made if this kind of reporting system is implemented regarding to whom the report would be sent. The developers of Callisto (<https://www.projectcallisto.org/>) are working on an open source version. The Rhodes Computer Science Department has indicated a willingness to develop an equivalent version that takes South African law into account. This would need time and resources. A license to a pre-built application would be necessary. The IT Services division has indicated that they could advise around protocols etc. We recommend that funding be made available either to purchase an out-sourced version which is appropriate to South Africa, or that funding be made available either for an internal group to develop the software internally or for a Masters or PhD bursary with this as the identified project.

It is this sub-task team's view that such a reporting system would offer a helpful alternative for students who do not wish to report face to face, at least initially. The advantages of the system are as follows:

1. Offering a supportive and safe electronic space for reporting that acknowledges and validates complainants' experiences of violation may in fact facilitate students going on to make contact with staff of the Harassment Office;
2. If an alleged perpetrator is accused by more than one complainant, the staff of Sexual Harassment Office can follow up with the complainants (if they did not wish to pursue charges) to ascertain if, in light of there now being more than one complaint against the alleged perpetrator, they wished to proceed with a case;
3. If complainants do not wish to pursue cases personally, and if the staff of the Sexual Harassment Office feel that there is a case for

the University to pursue the matter nevertheless, Remedial Discussions, as outlined above, could be followed. When complainants report their complaint, they should be alerted to the fact that University may contact them should further information (e.g. more complaints) come to light;

4. The online system could include channels of support if the complainant chooses to stay anonymous.

A similar "information portal" (including information on support) could also be set up for people who consider themselves potentially to be perpetrators. See further discussion in Part 4.

## PEER AND COUNSELLING SUPPORT

In addition to the support provided by support advocates, peer supporters could provide ongoing and sustained support. People may choose to do both the support advocate work and the peer support work or either. Peer supporters' work could include outreach-type activities: talks, opportunities for sharing stories etc. In addition, they could provide support to any complainants needing support outside of the formal support provided during the retributive justice or restorative justice process, and for incidents that may have taken place prior to the person entering the University. This support could take place online or face to face. The University website could support an anonymous chat room in which complainants could speak to a supporter and if they found that they liked the supporter and wished to speak to them personally, the two would then arrange to meet face to face.

Two issues arise with this option:

1. Training of supporters -
  - a. Given the extremely sensitive nature of the topic at hand, these supporters would have to have counselling training (specifically focused

<sup>1</sup> Research carried out in the USA in 2002 found that 2 out of 3 student rapists were repeat offenders. More recent research suggests that the figure there might be lower (Kingkade, 2015). We have not been able to find similar research on South African campuses. However, conversations around the time of the #RURferenceList would suggest that repeat offenders or serial rapists are a problem on this campus.



on trauma support) in order to respond in a way that is specific to the needs of sexual violence survivors;

- b. The training would need to be designed and carried out through the Counselling Centre. It should be noted that a successful model of peer support already exists with the Wellness Leader Programme. It may be possible to recruit some peer supporters from amongst the wellness leaders and to dovetail the two programmes in a way that uses available resources most efficiently.
2. A venue which would be used for complainants and supporters to meet - a safe space would obviously have to be available for supporters to utilise when meeting complainants and we do not feel that the Counselling Centre would be a viable option given the 'psychological' nature of the Counselling Centre that a peer support system seeks to avoid. Public spaces would also not be suitable due to the sensitive nature of the conversations.

Despite the perceived benefits of peer support, there are also challenges that would need to be considered and managed if peer support goes ahead:

1. The accountability of supporters. These supporters would need to be bound by a commitment to confidentiality and professional conduct. However, this will be difficult to enforce/monitor. Any break in confidentiality would be highly detrimental for the complainant;
2. The emotional well-being of the supporters. It would obviously be important to maintain the emotional well-being of the supporters given that the nature of the work would be stressful. However, we could implement a debriefing/supervision system in which supporters regularly seek support themselves;

Some, but not all, complainants may welcome

the opportunity to speak to a psychologist in the Counselling Centre. This option should be made clear to the complainant. Psychologists and interns working at the Counselling Centre should be versed in dealing with cases of sexual violence; in addition, the case load of the Counselling Centre should be reviewed on a regular basis to see if additional human resources are required.

## RESIDENCES AS SAFE SPACES FOR ALL STUDENTS

The Safe Spaces sub-task team discussed ways in which residences themselves became sites of protest during the Fees Must Fall protests in 2015 and again in the recent RU Reference List protests where considerable pressure was put on students to join the protests through, amongst other things: verbal harassment, coercion and shaming, verbal and physical intimidation and, on occasion, physical violence. This violates the safety of students' most intimate living spaces and as a sub-task team we condemn any practice which does so. We recognise that these practices of harassment and intimidation caused significant psychological distress for many students, particularly for the many students who are themselves complainants of sexual violence or have someone close to them who experienced such violation. We would like to prevent any such harassment and/or intimidation in future. We recommend that the Academic Project and Protocol Facilitation Committee investigate interventions which would highlight the importance of mutual respect and tolerance of difference in political practices and engagements specifically in residences, as a space where students should feel safe and at home.

## INCREASING SAFETY

### Bystander training

Bystander intervention trains students to identify and intervene in potentially harmful situations. The aim

is to prevent sexual assaults by training students to recognise and intervene in situations that could lead to sexual assault. This kind of training is carried out in some American universities. It is recommended that this be included in the Orientation Programme for first year students. Lessons from other such initiatives (e.g. Bell Bajao, Ring the Bell - which encouraged men to act against gender based violence) can be used to inform this training. For information about bystander training see:

- » 'Protecting students from sexual assault' (<https://www.justice.gov/ovw/protecting-students-sexual-assault>)
- » 'Stepping up to stop sexual assault' ([http://www.nytimes.com/2014/02/09/education/edlife/stepping-up-to-stop-sexual-assault.html?\\_r=0](http://www.nytimes.com/2014/02/09/education/edlife/stepping-up-to-stop-sexual-assault.html?_r=0))

### Cell phone apps to increase student safety

There are generic safety applications for cellphones, which could also be an important tool in rape prevention. The Circle of 6 app is a safety app which allows you to add 6 people to a circle whom you can contact in emergencies. By tapping on icons on your screen, it sends a message to people in this

circle. One icon sends the message, "Come and get me. I need help getting home safely" with your GPS coordinates, for example. These apps already exist and students could be made aware of them and be encouraged to use them. They can also be customised for the South African context with emergency numbers, support services' details etc. Again, the customising of such apps will be relevant to all Higher Education institutions in South Africa and there are various schools interested in using the app as well. This project can be linked to the project of developing an online reporting system. It is recommended that a customized app for the South African context with emergency numbers, support services' details etc. be developed or explored and that students be made aware of, and encouraged to use, the app.

### Emergency information

Contact numbers and physical addresses of doctors, the hospital, the Sexual Violence Office should be made available to all students and staff in the form business cards, flyers, posters on campus and online.





# BACKGROUND TO REPARATIVE JUSTICE AND SYSTEMIC ISSUES



**What follows in this report is an exploration of how sexual violence and rape culture can be addressed at the University from a standpoint that recognises that sexual violence is enabled in various ways by certain practices and routine ways of behaving which over time form part of the way the institution operates on a daily basis.**

The University needs to engage with the currently dominant cultural belief systems of parts of its community that provide the scaffolding for ongoing high levels of sexual violence. This necessarily entails engaging with and debunking widely held rape myths. Such beliefs have been defined as “attitudes and beliefs that are generally false but are widely and persistently held, and that serve to deny and justify ... sexual aggression” (Lonsway & Fitzgerald, 1994, p. 134). Acceptance of rape myths constitutes an integral aspect of rape culture and these erroneous beliefs about the nature and extent of sexual violence have been found to correlate with adversarial sexual beliefs and high levels of tolerance for interpersonal violence more generally (Payne, Lonsway, & Fitzgerald, 1999). What is more, “the importance of rape myths lies not in their ability to truthfully characterize any particular instance of sexual violence; rather, the significance of cultural rape myths is in their overgeneralized and shared nature as well as their specified psychological and societal function,” (Payne, Lonsway & Fitzgerald, 1999, p. 30). This function is usually to minimise the occurrence and harm of rape and other forms of sexual violence, to justify its occurrence – often through victim blaming – and to cast doubt on the veracity of complainants’ accounts, thereby contributing to the likelihood of the development of a culture of impunity with regards to sexually violent and coercive behaviours.

If the University is to take seriously its public commitment to a zero tolerance approach to rape and sexual violence on its campus and in society more broadly, it is going to be necessary to investigate, identify, and challenge the existence and reproduction of rape myths in all spheres of the University’s functioning and community life. This will entail challenging practices of student socialisation that promote adversarial sexual beliefs and practices; ensuring that reporting of cases of sexual violence is made easier and safer; that disciplinary and investigatory procedures take allegations seriously and do not reproduce victim-blaming practices; and that the disruption of currently dominant and accepted practices (both formal and informal) that reproduce sexist and patriarchal ways of doing and being within the University community becomes an institutional, structural, and pedagogical goal.

Postgraduate student research concerning the responses to survivors of sexual violence from within the student community reveal mixed results, showing progressive constructions of survivors as traumatised, silenced, and in need of support (Du Plessis, 2015) as well as the recognition of sexual violence as a serious social concern (Du Plessis, 2015; Samji, 2015) on the one hand, while reproducing discourses of victim-blaming and behaviour policing on the other (Du Plessis, 2015; Fowles, 2015). Additionally, rape and other forms of sexual violence are understood as contributing towards a pervasive fear for personal safety amongst women students (Fowles, 2015; Gqola, 2015). Furthermore, a sense of stigma is still believed to attach to the status of having been a victim or survivor of sexual violence (Fowles, 2015). This research has also highlighted students' discursive constructions concerning sexual violence as an issue of consent, but that this notion is one that is contested, differently understood, and not always clear, particularly in the context of alcohol usage (Du Plessis, 2015; Fowles, 2015).

One further aspect of responses to sexual violence within the University community that has been identified is the adoption of strategies of 'othering' with regard to how sexual violence and perpetrators of this violence are spoken about (Sedgwick, 2015). Discourses about sexual violence that construct and position perpetrators as 'outsiders' to the University community, as 'less-educated', or from a lower socio-economic status can amount to the denial of collective responsibility for sexual violence, the externalising of the problem to something that originates from 'outside' and a minimisation of the scale of the problem (Sedgwick, 2015). Such discursive constructions serve to shape the collective social imagination and belief system concerning sexual violence within the University community and to reinforce widely held rape myths about the 'deviant' and unusual nature of sexual violence (Payne et al., 1999), thereby further minimising the degree to which such events are regarded as serious or urgent community concerns.

A common response to high levels of sex- and gender-based violence on University campuses that is identified in international research literature has been the development of approaches that aim at risk reduction strategies for potential victims (Potter, Moynihan, Stapleton & Banyard, 2009; Bedera & Nordmeyer, 2015). This approach may go hand-in-hand with increased security on and around campuses (e.g. security cameras, secure walking routes, panic buttons, campus security personnel, student transport, etc.), as well as the investing of resources into reporting and support structures (often under the broad umbrella of student wellness and healthcare support). These are, in and of themselves, not necessarily inherently poor responses, but as interventions, they tend to focus responsibility for risk management on female students; to reproduce stereotypical notions of who perpetrators and victims are that render some cases of sexual violence invisible (e.g. the victimisation of male students, sexual violence committed in same-sex relationships, so-called date rape); to restrict institutional responses to the provision of after the fact support for victims/survivors; and to fail to address broader community attitudes and beliefs that underpin sexual violence (Banyard, Plante & Moynihan, 2004; Banyard, Moynihan & Plante, 2007; Bedera & Nordmeyer, 2015; Potter et al., 2009).

Of particular importance are the observations by Bedera and Nordmeyer (2015), that preventative responses focused on risk reduction strategies for potential victims, in the form of 'safety tips', are usually highly gendered, do not focus on engaging potential perpetrators about problematic behaviours and attitudes, and send problematic messages about people's vulnerability to victimisation in both public and private spaces. Additionally, such risk reduction strategies may also unwittingly reproduce social representations concerning rape and other forms of sexual violence as 'stranger danger', which may render violence by acquaintances and within relationships invisible. Possibly more useful than offering prevention tips is the idea that information regarding sexual assault prevention activities and resources for the support of victims/survivors be widely and clearly disseminated in order to demonstrate a high level of institutional support devoted to survivors of such violence (Bedera & Nordmeyer, 2015).

Thus, in different ways, each of the sub-task teams (Curriculum and Activities, Systemic Issues and Local and National Issues) involved in the compilation of the following parts of this report focused on the institutional culture of the University, on systemic issues to put it differently, with a view to enabling the reduction or prevention of sexual violence and the disruption of rape culture.

The approach of the Curriculum and Activities sub-task team (task team 3), the Systemic Issues sub-task team (task team 4) and the Local and National Issues sub-task team (task team 5) is generally informed by the notion of reparative justice laid out in the Foundation Document (Part 1). Underlying the efforts of these sub-task teams is Verdeja's (2008) formulation of the collective symbolic aspect of reparative justice, which highlights repressions, recognising victims' experiences of these repressions, condemning narratives that legitimate the repression, and that place responsibility for suffering on the victim. This element of reparative justice speaks broadly to resisting and dismantling what is known as rape culture – the metaphors, narratives, discourses, power relations, everyday practices and institutional arrangements that foster particular kinds of gendered, racialised, sexualised, and class-based power relations in which sexual violence is, at best, minimised in importance, and at worst, normalised. Collective symbolic reparation within the University context requires embedding issues concerning sexual violence in the curricula and activities across the faculties, and addressing systemic issues that foster particular hetero-patriarchal norms with a view to dismantling them. It also demands that attention be paid to the various social practices, both those which enable sexual violence and those which challenge rape culture, which collectively form part of University culture(s). Included in these social practices are gendered socialisation practices, residence culture, as well as institutional responses to sexual violence.

In other words, the culture and related discourses, practices and responses which give rise to, and perpetuate, sexual violence at the University and in broader society need to be examined, understood, and challenged through teaching and learning, a transformation of the social practices identified as being part of 'University culture' and responses to sexual violence (and the social practices and structures fostering it) at an institutional, greater Grahamstown community, and national level.

The physical and psychological disruptions seen in the #RURReferencelist protests reflects, not just a failure of policy within our University, but a cultural problem prevalent in the institution and outside of it. Our University is a part of the wider oppressive hetero-patriarchal society and rape culture (which is reflected and expressed in our University). The following parts of the report on sexual violence, which came from the expressions of anger by students seen during the #RURReferencelist protest, asks how we can effect change in our society as a University, both within or outside of the University community. The central question we ask here is: what should the University do to create a better, more open society in the face of an oppressive, hetero-patriarchal society living in a rape culture? It is with these aims in mind that sub-task teams 3, 4 and 5 began their research, collation of data, and compilation of recommendations on how to tackle rape culture at various levels at this institution.

This report has attempted to garner as many points of view and contributions from as many different sources as possible, including relevant literature pertaining to sexual violence interventions, postgraduate student research focused on the University context; published local and international research relating to sexual violence intervention strategies at college or University level; various reports such as the Quality of Residence Life Survey and those conducted on sexual violence and transformation at the University; the University website; and student press archives.

In order to facilitate the expression of clear, concrete recommendations which the University can implement with minimal delay, the following parts of this report describe 'spaces of learning' in the University which are both inside

and outside the formal classroom environment as spaces which can be used to contribute to the dismantling of patriarchy and rape culture. It asks the reader to consider both direct pedagogy and curricula, and teaching 'by example' through the actions of departments, faculties and the University as a whole, as ways in which our University can create a safer, more just society (both within the University and more broadly).

The following parts of the report is divided into five sections:

### **1. Current Extra-Curricular Activities and Practices**

Dealing with practices and activities already present in our University, this section highlights ways in which our University may use the expertise and activities already present within it to better address the issues of patriarchy and rape culture.

### **2. Inclusivity and Institutional Culture**

This section consists of an analysis and discussion of certain aspects of our institutional culture that require attention by our University, particularly focusing on empirical evidence dealing with the overlap between our institutional culture and rape culture.

### **3. Promoting Conversations**

Conversation and dialogue forms the foundation of relationships in any community, including this University. Here we outline and recommend ways in which our University can move towards a new way of engaging and fostering relationships between different individuals and groups while using conversation, deliberation and sustained dialogue to dismantle the social practices and discourses which contribute to the normalisation of sexual violence.

### **4. Creative Curricula**

The use of creative approaches to curricula – formal, informal and invisible – at our University are discussed here. Alongside recommendations about approaches which this team make about potential curriculum changes, this section includes an appendix (Appendix 7) from the Faculty of Commerce and descriptions of curriculum interventions which were implemented following the April 2016 protests.

### **5. Institutional Responses**

Responses of the institutional structures of our University – including structures such as the Student Representative Council, which are autonomous within the University – can either greatly exacerbate or mitigate the impact of harmful experiences within our community. This final section of the report both discusses institutional responses which have been made and proposes ways in which the institutional structures and responses may be improved.

There is a certain amount of overlap between each part, and the material dealt with in each section may be touched on in the other parts. This is inevitable. Systemic and cultural issues are by their very nature complex and multifaceted. All interventions should be addressed simultaneously if we are to effectively begin to dismantle the systemic and cultural problems that pervade our University and our society. The recommendations, wherever possible, are backed up with research and practical guidelines for implementation. This report also serves as an appeal for further input and more suggestions.

## PART 4

# CURRENT EXTRA-CURRICULAR ACTIVITIES AND PRACTICES



### Introduction

**It would be inaccurate to argue that very little is being done to challenge rape culture on campus. Over the years, a number of initiatives have been put in place to challenge students' and staffs' ideas around sex, gender, and sexuality.**

The following section discusses these, what worked and what needs improvement and focuses on the past year given the protests at the beginning of 2016. The following initiatives are detailed: student leadership training; the Orientation Week Programme; residence talks; warden's discussion/workshop; CSSR/GASP conversations during #RURferenceList protests; student society activities; silent protest; and My Body My Choice. Many of these initiatives are organised on an ad hoc basis. While this should be encouraged on the basis of units responding to need, a register of what is going on and some overarching co-ordination would be useful.

*Recommendation:* The proposed Sexual Harassment Office should keep a log of ongoing extra-curricular activities, and provide an overarching co-ordination function. This office should assist with resourcing where possible, or provide input on how to resource various initiatives, where this is necessary. The exact location of this office within institutional frameworks is yet to be established given that this is a recommendation. The suggestion of this office is dealt with in more detail in the first part of this report.

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### STUDENT LEADERSHIP TRAINING

Student leaders (which includes sub-wardens and house committee members) are expected to attend a week of training before the Orientation Week Programme commences. The Student Training Leadership Programme currently deals with issues of leadership, diversity, counselling, first aid as well as

specific training related to their individual portfolios within their residence and hall. Included in this training are various workshops focused on gender, sexuality, and rape culture. These include: the gender dynamics workshop; input on harassment; and input on valuing and embracing diversity.

## Gender dynamics workshop

This is an hour-long workshop that has been part of the student leadership training for a number of years. The facilitators of this workshop are currently Dr. Lindsay Kelland and Ms. Natalie Donaldson, but over the years have included other staff members and students who work within the area of gender (e.g. 2016 included Ms. Jabulile Mavuso and Mr. Werner Bohmke). Up until 2016, this workshop was divided along a binary gender line (i.e. male student leaders with male facilitators and female student leaders with female facilitators). This was problematic given that it reinforces one of the tenets of rape culture (i.e. that a gender binary exists) and excludes gender non-conforming student leaders. In 2016 the group was divided differently - sub-wardens in one venue and house committee members in the other. This division was needed simply due to space. The aim of the workshop is to familiarise student leaders with how their own views and practices may perpetuate rape culture and highlight how some of the traditional practices of Orientation Week and being a student at our University perpetuate rape culture. The workshops are only an hour long and, while it does work to challenge some ideas, the time is simply not enough to fully engage with the complexity of the issue.

## Input on harassment

In 2016, the University's Manager of Student Wellness (Nomangwane Mrwetyana) spoke on harassment during the Student Training Leadership Programme for between 30 and 45 minutes. Thandi Bombi, a journalism student who covered the talk, described the talk thus: The talk on harassment was not only aimed at equipping the student leaders in dealing with the harassment of fellow students, it also served as a platform for these individuals to learn about their rights, what constitutes harassment and what support is offered at the University, as well as highlight that the policy is under review and students have an opportunity to have input in refining the new policy.

## Input on valuing and embracing diversity

In 2016, this talk, entitled *Identity: The importance of self-discovery*, addressed diversity through a focus on individuality. The talk covered the pressure of changing or masking the self in order to fit into a socially desirable group identity and meet the human need for a sense of belonging. It was presented by the Manager of Student Wellness (Nomangwane Mrwetyana) and an intern counselling psychologist at the Student Counselling and Career Centre at the University (Sipho Dlamini).

*Recommendation:* The student leadership training programme, which is vital in equipping student leaders within the residence system to speak about, and assist with, issues pertaining to sexual violence, should be continued. Consideration should be given to increasing the amount of time devoted to gender and sexuality issues. The Manager of Student Wellness should liaise with the proposed Manager of the Sexual Harassment Office in providing these inputs.

## ORIENTATION WEEK PROGRAMME

A few workshops and activities have been put in place during the Orientation Week Programme, which aim to challenge first year students' ideas around diversity; some of these focus specifically on gender-related issues on campus. These include the SRC facilitated discussion on lived experiences, and staff facilitated discussion on institutional culture. The Orientation Week is, however, overloaded, and connection of these activities with ongoing extra-curricular activities would be useful.

### SRC facilitated discussion on lived experiences

In 2016, the SRC facilitated a discussion during the O-Week Programme looking at lived experiences at our University. Each talk was an hour long from 4-5pm every day. This involved 4-5 students who had been at the University for a couple of



years discussing their experiences based on their identities. These students were Chelsea Haith, Riyadh Casoojee, Siya Nyulu, Lesedi Thwala, and Gorata Chengeta. Each student on the panel spoke for 5-10 minutes and then invited comment or questions from the first year audience. Inquisitive and positive responses from the audience in the form of questions, clicks, clapping, and cheers suggested that the Lived Experience Workshops were a success since they were an interactive way of engaging students on diversity and the issues students face based on their perceived or actual identity at our University. Furthermore, hearing a person's individual experience makes the topics of sexism, racism, homophobia, xenophobia, ableism etc. 'real' and not an abstract theoretical topic. The topics covered by the speakers that week included: whiteness and white privilege; the distinctions between sexuality, sex and gender; the experience of an international student; the experience of being on NSFAS; being Muslim on our campus; and what the Gender Action Project and OUTRhodes offer in terms of support and guidance.

### **Staff facilitated discussion on institutional culture**

Staff members with expertise in gender (Dr. Kelland and Ms. Donaldson) have been facilitating a first year workshop on gender issues during the O-Week Programme for first year students for the past few years. While the talk is entitled Institutional Culture, the workshop has always focused on rape culture and the various traditions or activities at our University that promote problematic ideas of gender and sexuality. In previous years, the workshops were divided along binary gender lines, which was highly problematic. However, in 2016 the workshops were divided according to residence halls. Overall, these talks were fairly well attended but there were logistical issues around ensuring the attendance of first year Oppidan students. Furthermore, there was a general lack of engagement with the topic and the time limit given, only one hour, is simply not enough to challenge or unpack problematic comments made

during these sessions.

*Recommendation:* A Re-Imagined Orientation Week and Beyond is recommended taking into account the following suggestions: (1) the current content of Orientation Week could be supplemented with issues relating to sexual violence and rape culture; (2) the activities conducted in Orientation Week should form the foundation for ongoing extra-curricular initiatives. Ongoing focused discussions during the first semester such as at lunch time, in the evenings and at weekends would be useful. A re-imagined O-Week and Beyond programme could involve a sustained and regular programme of residence discussions (see section below), rather than just a workshop during O-Week. It is also imperative to find a way of reaching Oppidan students (See below recommendations regarding informal socialisation practices during Orientation Week).

### **RESIDENCE TALKS**

Over the past couple of years, but especially in 2016, a number of students and staff members (e.g. Ms. Natalie Donaldson, Dr. Lindsay Kelland, Mr. Werner Bohmke, etc.) who are regarded as knowledgeable on issues of gender, sexuality, and rape culture have been asked by residence student leaders and/or wardens to facilitate discussions with their students in their residence. These occur only when someone is asked to do so. These are really good spaces in which to challenge the ideas that students hold which perpetuate rape culture. The time limit is more flexible, the environment more relaxed and conducive to a discussion and, in many cases, the students themselves requested the conversation. Very often there is no formula to how these discussions occur (which is different to the workshops described above) which means that the discussion is focused on what the students want to know, learn about, or discuss.

*Recommendation:* It is recommended that more of these types of conversations take place.



The Manager of the proposed Sexual Harassment Office should alert all wardens and sub-wardens to the possibility of such talks, and co-ordinate the setting up of such talks.

*Recommendation:* It is recommended that a new profile be added to the residence House Committees, namely a Sexual Violence Representative. This new portfolio would communicate that there is specific attention paid to sexual violence issues and would cover a number of important aspects in dealing with sexual violence. This representative would be responsible for talks in residences, for being someone students in the residence could talk to, for knowing all the sexual violence policies and procedures etc. There would not necessarily need to be a representative in each residence, though ideally there should be one or two in each hall. Again, training and supervision would be essential in order to equip the Sexual Violence Representative to perform effectively.

## WARDENS' DISCUSSION/WORKSHOP

In 2016, Dr. Lindsay Kelland and Ms. Natalie Donaldson facilitated a discussion with the house and hall wardens to discuss the #RUReferenceList protests, rape culture, and their roles and responsibilities as wardens in the residence system. The workshop was organised by the Director of Students Affairs. This discussion, again, worked well because while the facilitators went in with a prepared presentation, the presentation was flexible enough to focus on what the wardens wanted to know or discuss. There was also enough time to engage with some problematic comments or ideas or concerns that were raised.

*Recommendation:* It is recommended that staff with expertise in gender/sexual violence and rape culture facilitate discussions/workshops with various levels of staff at the University. This is particularly important as Table 7 in the Appendix 6 shows that in the Quality of Residence Life Surveys conducted from 2010 to 2013, 15.1% to 21.3% of students indicated

that they did not feel comfortable discussing personal issues with house wardens.

## CSSR/GASP DISCUSSIONS DURING #RUREFERENCIELIST PROTESTS AND STUDENT SOCIETIES

The Critical Studies in Sexualities and Reproduction (CSSR) research programme is a multi-disciplinary programme. Research activities fall under the following broad interconnected areas: (1) sexualities; (2) reproduction; and (3) unsupportable pregnancies/abortion. The Gender and Sex Project (GASP), an independent student initiative currently operating at both UCT and this University, primarily works with high school learners. Their presentations help students to facilitate discussions about sexual violence, and gendered power relations more generally, with the people they work with in their community engagement.

During the protests, the CSSR came together to brainstorm and formed the CSSR Conversations, which mainly comprised of the GASP facilitators and drew on GASP facilitators' experience in facilitating discussions and a few members of staff. The CSSR and GASP decided to offer their services in the form of interventions e.g. lecturers who felt they were not able to debrief their students about the sexual violence protests asked students from the CSSR to facilitate such conversations. The CSSR Conversations were also held all over campus after the protests, using social media e.g. Facebook and Twitter to inform students about the topics to be discussed and the venues, usually open spaces such as the Drostdy lawns. Additionally, there are two student societies in particular who organise a number of events, discussions, and activities around gender and sexualities issues throughout the year - OutRhodes and the Gender Action Project (GAP).

*Recommendation:* Community engagement projects that engage with gender and sexual violence should be encouraged. The Sexual Harassment Office should keep a registry of projects/people/units conducting work, or with expertise, in gender

and sexual violence for use within and outside the University community as necessary.

*Recommendation:* It is recommended that the Sexual Harassment Office, GenAct and other pertinent units work with the OutRhodes and Gender Action Project student societies in the implementation of the recommendations contained in this report.

### SILENT PROTEST

The Silent Protest has been a protest that has been in place for a decade and was initially implemented by Larissa Klazinga in 2007. The Silent Protest has served two purposes: 1) to create awareness around the pervasiveness of sexual violence, and 2) to create a healing space for survivors/victims. While the protest is a one-day event (there was talk about implementing lead up events), the effect of this protest has been profound. The protest did not happen in 2016 for various reasons related to the #RURferenceList protest, one of which focused on the silencing of participants which many saw as problematic given the discourse of the #RURferenceList protests.

*Recommendation:* It is recommended that the Silent Protest planning committee find ways of reimagining the protest in light of what has occurred on campus in 2016, and the critiques that the #RURferenceList protests suggest about the protest. The cancellation of the Silent Protest this year was disconcerting for some students who gave anecdotal reports on this and so the reimagined protest must take into account students' needs. In the longer term, it is recommended that a meeting of all stakeholders be held to discuss the future of the Silent Protest. It may not be appropriate to hold it in its current format, even at a time in the future. Any discussions in this regard should take into account the following recommendations made in a document submitted by the organizer of the Silent Protest, Ms Kim Barker, to the DSA and Directorate Equity and Institutional Culture in November 2014, as well as the input from other organizers:

*My experience of organising the Silent Protest in 2014, together with my PhD research focusing on the impact of participating in the protest for women who have experienced sexual violence, have caused me to reflect deeply on the nature of the Silent Protest, its effects (both intended and unintended), its sustainability, its responsiveness to changing emphases and needs, its meaning for survivors of sexual violence and for the broader Rhodes community, and very importantly, the ethics of holding it as an annual event. I have also consulted widely with students and staff through interviews and surveys, formal review meetings and innumerable informal conversations. It is with this as background, and drawing on these sources of knowledge, as well as the academic literature, that I make the following recommendations:*

- 1. The Silent Protest should never be an isolated event. In order to ethically address the impact of the protest for all participants, it needs to be embedded in an ongoing programme of awareness-raising events, interventions to challenge the thinking which informs gender-based violence and support for both male and female survivors. This approach was endorsed by GenAct (Minutes: 13 May 2014) and by the Silent Protest Planning Committee.*
- 2. Our interventions in relation to gender-based violence need to be draw on current research and practices in the field and we need to address prevention of violence as well as support for survivors. For example, recently published research (The Lancet, Special issue on Violence against Women and Girls, November 2014) suggests that group training interventions for men and women, as well community mobilisation, can be effective in decreasing the perpetration of gender-based violence. Several intervention programmes now have a strong evidence base and can be adapted for use in the University setting.*

3. *To a limited degree, the broader community of Grahamstown has been drawn in to participation in the Silent Protest through local schools and community organisations such as Child Welfare and the Assumption Development Centre. While there are safety and logistical concerns which need careful reflection, there is scope for much more extensive community engagement around the Silent Protest and sexual violence more broadly.*
4. *The pedagogical potential of the Silent Protest could be realised more fully. The Silent Protest itself offers each of its participants a challenging, and therefore potentially construct-shifting opportunity for reflection on issues of gender and justice. It is one of the most significant extra-curricular experiences on offer at Rhodes. However, it would be possible, and potentially beneficial for reflection on the Silent Protest to be integrated more deliberately into the curricula of various disciplines. This will require advocacy and co-ordination.*

## MY BODY MY CHOICE

The My Body My Choice (MBMC) campaign is an exhibition that aims to disrupt and challenge the prejudice and discrimination people face due to their perceived or actual identity and the ways in which their identity is performed. The campaign involves a photoshoot where participants can represent themselves and perform their identities in the way that they choose. As such, the campaign not only aims to disrupt problematic ideologies related to people's performance of identity or their bodies, but also serves as empowering for those who participate. The MBMC campaign has gone through various changes over the years, from first being for women-identifying people only to, in 2015, including anyone and any identity that is perceived negatively by our social and cultural contexts. The campaign did not take place in 2016, due to time and the fees-related protests that began in September/October.

While there are some negative reactions and concerns surrounding the campaign, these should be worked with and the campaign continued in future years.

*Recommendation:* The housing and resourcing of the annual My Body My Choice campaign needs attention. Potentially this could fall under the Sexual Harassment Office, with staff of this office drawing on the expertise of others. The Gender Action Project has also been involved with MBMC in past years and it might be so again to ensure student buy-in.

## INCREASING AWARENESS AND TRAINING ON CAMPUS

### Code of conduct

A code of conduct that covers sexual violence, offences and harassment should be developed and every student and staff member should be required to sign a declaration stating that they have read the policy, understand it and agree to abide by the code. This, in conjunction with the inclusion of consent, sexual violence and rape culture in the University curriculum and activities, will ensure that ignorance cannot be used as a mitigating factor in respect of internal disciplinary processes.

### Staff and student training

After investigating training programmes offered in other parts of the world, our task team recommends that we implement a multi-pronged training initiative that will supplement the training already on offer<sup>1</sup>. Clearly there are those members of staff and students who are more likely to be approached by survivors for disclosure purposes, such as Hall and Residence Wardens, but we recommend that our training approach be comprehensive because

<sup>1</sup> For example the Division of Student Affairs runs training programmes in the week prior to Orientation Week at the beginning of each year for all house committee representatives, senior students, etc. The Counselling Centre also runs ongoing training with Wellness Leaders, and currently there is almost a wellness leader in every residence.

even staff who are unlikely to have a sexual assault reported to them when it happens may have conversations with complainants in relation to academic processes such as the need for LOAs or deadline extensions. These staff members need to be able to respond in appropriate ways. In addition, students sometimes report feeling uncomfortable in other spaces as well, such as in lectures, where attitudes which form part of rape culture may be expressed by lecturers. Given this, we decided that we needed to offer *at least* two different programmes - an online training programme that every staff member completes, with basic information that *everyone should know*, and more comprehensive workshops for those who are more likely to be approached, which would include basic counselling skills. We will discuss each option in turn below.

### Online training (for all)

In other parts of the world, notably in the United States — where people have been thinking about the problems of date rape, rape on University campuses, and rape culture for a significant period of time already — universities have implemented online training programmes that all employees have to complete within a specified time frame after being employed. If the employee fails to complete the training, the programme sends him or her automated reminders until the training is complete<sup>2</sup>. Our team contacted one such University in the States and was granted permission to access one of their online training programmes. The programme is interactive; the participant reads the legal definitions of the issue at hand, the laws surrounding the issue, internal policies and procedures in place surrounding the issue, and then answers questions that test whether s/he has learnt the material. Interestingly, the programme will not allow you to continue with the training if you answer incorrectly; you have to keep trying until you choose the correct answer

<sup>2</sup> Similar to the online research report programme, which sends reminder emails to staff about submitting their research outputs on the online system

(these were always multiple choice). The training programme also involved watching vignettes of conversations or interactions between people that bring the issue to life in some way. When the participants choose the wrong answer, the programme explains why it is wrong, before giving them the opportunity to answer again.

The programme that we investigated could be replicated quite easily. This would ensure that the entire University community has (1) basic knowledge about South African law when it comes to rape and sexual violence, not only in terms of the legal definitions of rape, consent, etc., but also in terms of reporting a case of rape to the police and how to go about getting evidence collected in ways that will hold up in court; (2) an understanding of whatever internal policies and procedures there are in place at the University, both in terms of disciplinary action and support; and (3) an understanding - gained through our choice of vignettes, narratives, etc. - of the impact(s) of rape and sexual violence on complainants, and on society, as well as the impact of rape culture on the ways in which we, as individuals, see ourselves and one another, and act in the world, and how our language, beliefs, values, and norms reflect rape culture. A further advantage of implementing an online training programme is that once it is in place, it requires relatively little maintenance and very little staffing. It would be an automated system that each year could be rolled out in the first term ensuring that all students and staff have this information and a heightened awareness of the culture they live in.

### Comprehensive workshop for 'relevant' staff and students

Comprehensive workshops are recommended for all relevant staff, including Hall and Residence Wardens, Health Care Centre staff, support advocates, peer supporters, any staff members (and older students/survivors) to whom the students are likely to report, those working in the Division of Student Affairs and the Vice-Chancellor's Office, and prosecutor

and proctors. Again, in most universities in the States, the online training option described above is accompanied by other options — including workshops that are run by members of the University with particular expertise. There are typically numerous workshops on offer, covering various topics for which members of staff may need training.

What we have in mind here pertains to those individuals who are highly likely to be approached by a student or member of staff who has been raped or sexually violated — Hall and Residence Wardens, Health Care Centre staff, staff members (and students/survivors) to whom the students are already reporting to<sup>3</sup>, and those working in the Division of Student Affairs and Vice-Chancellor's Offices.

These workshops would be run by those with the relevant expertise within the University and broader Grahamstown community and would go into more detail about how to respond to the survivor in a way that does not cause further harm. These comprehensive workshops would not only include an in-depth analysis of rape culture (facilitated by relevant academic staff), but also basic counselling skills (facilitated by the Counselling Centre).

### **Information portal for 'potential' and alleged perpetrators**

In line with the aim of prevention, it would be useful to provide people who either feel that they may have committed sexual harassment (wittingly or unwittingly) or who have been accused of sexual harassment with information about their actions, the implications thereof, and where to obtain support in preventing further incidents. An anonymous 'information portal' could be set up for

such people. Various options could be provided: (1) the provision of information on: what actions constitute sexual harassment/violence; University policies; the possibility of self-reporting, and of restorative justice processes; sources of help to work through psychological issues associated with being a perpetrator and to desist from the behaviour; readings that could assist the person in understanding the gendered dynamics (including the harm caused by particular forms of hegemonic masculinities) that underpin sexual harassment and violence; (2) the possibility of anonymous electronic interaction with a staff member of the Sexual Harassment Office to talk through the actions and the steps that the individual can take to remediate his/her behaviour.

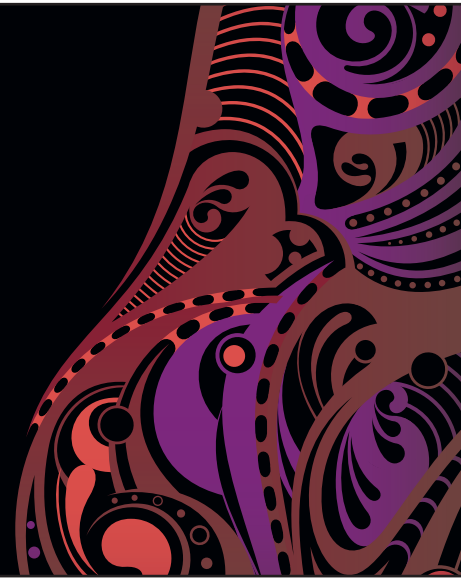
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<sup>3</sup> We recommend circulating a request via the mailing lists for anyone who finds themselves in this position to come forward. Even in our team's conversations we have uncovered the fact that a number of us - both staff and students (and often survivors) who are known within the community - have been approached by survivors for reporting or disclosing purposes. Despite the fact that these individuals are not part of the official structures put in place by the University, it is essential that they also receive this training, and potentially sporadic debriefing spaces.



## PART 5

# INCLUSIVITY AND INSTITUTIONAL CULTURE



### Introduction

The University social space is not as inclusive as it might be, especially for ‘minority’ or gender non-conforming students. In an article published by then Dean of Students, Prof. Vivian De Klerk and colleagues in 2007, the institutional culture of our University was already highlighted as androcentric and potentially exclusionary for women and members of racial ‘minorities’ (used here in the social rather than numerical sense) (De Klerk, Klazinga & MacNeill, 2007). This circumstance can be extended to individuals of gender minority groups. When defining the idea of institutional culture, De Klerk et al. (2007), drawing on Bourdieu, speak of “the habitus of the dominant [which] tends to pervade the social system, making it difficult for those with an alternative ‘habitus’ ... to participate as equals” (p. 115). Recent, student-led activism at our University (over the past two years – 2015 and 2016 –, particularly) has highlighted precisely this exclusionary and pervasive institutional culture as sorely in need of transformation.

Since its inception in May 2011, the office of Equity and Institutional Culture (E&IC) has been tasked with driving the transformation of the University culture so that “staff and student practices are demonstrably informed by a deep appreciation of equality, equity, and human rights” (Equity and institutional culture, n.d.). As such, the E&IC can be said to oversee the transformation of the University into one that is experienced as an inclusive space by all within its community. Reports released by the E&IC on staff equity indicate that the focus of transformation at a staff level has been around representation and experiences of discrimination along dimensions of race, gender, sexuality/sexual orientation, age, disability, nationality, and religion. The 2014 report on RU institutional culture revealed high dissatisfaction with the institutional culture, particularly in terms of the inclusivity of racial and sexual orientation identities. While this is an important indicator of a lack of inclusivity at a staff level, this information can and must be supplemented with further information. Little is known about staff members’ experiences of institutional culture as it relates to rape culture: sexual harassment, offences and violence and the systemic issues that promote or challenge these.

*Recommendation:* Ongoing engagement is recommended with the imperatives of transformation of the University, specifically in terms of issues related to the appropriate representation of gender and race in both formal and informal University structures, as well as the tackling of key issues related to the lived realities of social exclusion experienced by many members of the University community when confronted with the prevailing cultural paradigm of the institution. It is suggested that the Office of Equity and Institutional Culture be sufficiently empowered to act as the driving force behind dedicated and continuing initiatives for transformation.

In the following section, inclusivity in relation to residences, student media, ‘purple rhodent’ culture, identified gender socialisation practices in the context of drinking culture, residence inter-visiting rules, residence serenades, and transparency in reporting cases of sexual harassment are discussed.

## INCLUSIVITY IN RESIDENCES

For the years 2010-2013 the University conducted annual Quality of Residence Life Surveys. The results of these surveys have been published on the University website and can be accessed at the following address: <http://www.ru.ac.za/residences/>. The stated purpose of the survey is to a) gain an indication of students’ general satisfaction with the residence system/ life in residence, and b) identify problems experienced by students with a view to improving the quality of residence life. This is useful and important information on what is already known about experiences of marginalisation in residences, spaces in which students live and engage with each other and their house committee members, sub-wardens, house and hall wardens. Residences may be a site in which sexual violence occurs and rape culture perpetuated. Unfortunately, the only results available are for the years 2010-2013. Some of the students who were part of the survey in their first year are currently Honours students at the University. However, the issues brought up in 2010-2013 regarding the residence system are still relevant — suggesting that this survey offers some insight into the long-term factors that have given rise to student protest in the last two years.

The QUORL survey was administered to students in residence towards the end of each year (at least for the period for which results are available), to which students responded anonymously. The QUORL

survey has several items, mostly constructed as statements which students respond to by selecting one of five Likert-type answers: strongly disagree, disagree, neutral, agree, and strongly agree. For certain items, students were also able to provide their own qualitative responses. Over the 4-year period (for which results are available), there was some variation in the items that were included in the survey. For example, it is notable that in the years 2012 and 2013, the survey included a statement on students’ experience of Orientation Week. Given the letter sent by a student in 2012 to the then Dean of Students, Dr Vivian de Klerk, regarding the student’s negative experience of serenades, it is presumed that this was done to obtain an indication of whether students were satisfied with their ‘Serenade’ (later RU Jamming) experience.

In the following we present a brief overview of some of the issues raised in this survey pertinent to understanding sexual violence within the residences. A full report is contained in Appendix 6:

1. For the years 2010 and 2011, 9.1% and 8.5% of students (n = 2666 and n = 2767 respectively) agreed that they had witnessed a violent incident. This equates to 243 and 235 students reporting witnessing violent events in their residences in those years.
2. Over the four years of the survey, 12 - 13% of students felt unsafe walking around campus



at night. This translates to between 334 and 363 students feeling unsafe. Four times more female than male students indicated that they felt unsafe walking around campus at night. Between 5% and 6% of students did not feel that safety precautions in residences were sufficient; there was no difference between male and female students on this item.

3. Over the four years of the survey, between 7% - 10% (n = 179; n = 269) of students felt that there was a drug problem in their residence; a higher percentage (between 15% and 20%) felt that there was an alcohol problem in their residence. This speaks to the 'drinking culture' at the University, which is discussed below.
4. Although a low percentage of students indicated that they had been discriminated on the basis of gender, sex, race, nationality/ culture, sexual orientation, religion or disability, or had witnessed an incident in which people in these identity categories were discriminated against, the NUMBER of students reporting these incidents are cause for concern. Tables 5 and 6 in Appendix 6 outline the full percentages. Numbers range from 35 to 135 students reporting being subjected to discrimination, and from 52 to 188 reporting witnessing a discriminatory incident. This indicates that there is fair number of people who face unfair treatment, which may make them vulnerable to violence, including sexual violence.
5. Between 15% and 21% of students over the four years did not feel comfortable approaching their house warden with personal issues.

*Recommendation:* The Quality of Residence Life Surveys should be resumed and should be revised with input from the proposed Sexual Harassment Office and the Director of Student Affairs Office; the surveys should include questions about sexual violence and sexual harassment that are constructed in a sensitive manner. Although the survey shows that a minority of students are discontented with

their residence life, this population of the University community deserves our attention. Therefore, attempts must be made to improve students' quality of life based on these and future results.

*Recommendation:* The effectiveness of the survey would require the items to be phrased in a clear and unambiguous way and for items to be consistently included from year to year. If re-instated, it would be more useful for the survey to be submitted online than in person during a house meeting as was the procedure. This would enable honest and uncoerced participation in the survey which might have been prevented by the presence of house committee members, sub-wardens and the warden during the administration and filling out of the survey. Online submission heightens levels of privacy and openness of responses. The results of the surveys would need to be published, in a number of formats (not simply made available on the University website) and students made aware of their publication. Where the results indicate problems, for example, in relation to student-warden, and student-sub-warden power dynamics, a mechanism should be put in place for these to be acted upon appropriately by the Directorate of Student Affairs and Human Resources.

*Recommendation:* A similar form of information gathering should be developed to gain an understanding of the experiences of students not living in residence as issues affecting Oppidan students tend to be made invisible.

## MEDIA FORA AND INSTITUTIONAL CULTURE

Media fora, including student newspapers and social media pages (such as Facebook), are a platform on which students can engage meaningfully in the issues that affect them at the University. They are a platform which, when used effectively, can enable students' voices to be heard, particularly the most marginalised. Such media may also be a representation of particular cultures; the content of these spaces, both the topics/issues discussed

and the discourses mobilised to discuss and frame these issues, may speak to University community culture(s) or, at the very least, aspects of that culture. Student newspapers in particular may be, arguably, conceived as spaces in which topics are discussed in a critically engaged manner, spaces in which problematic aspects of University culture(s) are challenged and addressed. It appears, however, that this has not always been the case. Specific examples are discussed in the following section on gender socialisation practices at the University.

Generally, *Activate* and *The Oppidan Press* regularly include a multiplicity of voices and opinions in their coverage of a particular issue, which is important in order for all members of the University community to feel a sense of inclusion and belonging. For example, in *Activate*'s article (Cadden, 2012) some students echoed the sentiments contained in the anonymous letter to then Dean of Students: "The bad thing about serenades, especially in male residences, is the overwhelming amount of sexual connotations that I sometimes felt ashamed to utter". Other students strongly disagreed with this. One response is an example: "Some guys, however, take it too far but generally from my view – there was not any form of sexual harassment...I think it is ridiculous to be honest and I see it as a form of attack on tradition. It has been working for years now". The importance of giving voice to a multiplicity of views cannot be understated.

What is also important, however, is the role played by student newspapers and other media fora which can, and arguably should, be vehicles used to challenge problematic discourses and narratives, such as a narrative in which potentially harmful practices (even if only for some) are espoused for the sake of tradition with the result that (some) students' experiences are invalidated in the process. The independence of the student press and of the right to freedom of expression must be upheld; at the same time, it is worthwhile for the editors, writers, and moderators of the student press to engage in

critical reflection of how, and in what ways, their press shapes University culture(s).

Although Facebook pages may be viewed as public spaces in which to express personal views and exercise freedom of expression, pages that are set up by particular individuals or groups, and thus have an administrator, may be governed by rules of engagement or discourse set up by the administrator, rules by which members are expected to abide. These rules could include the sanction of harmful or problematic comments, such as those that are sexist (among other forms of intolerance) and/or perpetuate rape culture. Increasingly, social media pages (such as the South African Feminists Facebook page) which are aware of the sometimes inadvertent harm that can be caused by members have such rules of discourse where members are sanctioned for violating the rules. As opposed to simply removing offensive posts, a sanction may be for the administrator to call out members who have posted an offensive and harmful comment/statement and invite the member in question to take note of and demonstrate an understanding of the offence committed, and to take responsibility, not only for the harm caused, but also to take upon themselves the task of further educating themselves if necessary about why the comment was harmful and therefore problematic.

The SRC Facebook page is one example where the adoption of such rules and sanctions would be highly beneficial in creating and sustaining a culture that problematises sexual violence and rape culture, in addition to various other forms of intolerance and violence. To date, students have posted sexist comments, among others, which, while challenged by other members, have usually gone unchecked by the SRC itself. Social media is notoriously difficult to police, and the SRC cannot be expected to monitor student activity on pages that are outside their control, but they should be more active in promoting inclusivity and condemning hate speech on these fora.

*Recommendation:* Student media editors, writers, and moderators should engage in reflective practice regarding how, and in what ways, they support particular University culture(s). The Media Representative of the SRC should take on the role of monitoring the SRC Facebook page to ensure that it creates and sustains a community where rape culture is not tolerated. Balancing the right to freedom of expression and the sanction of hate speech, this could include not allowing hate speech, and the SRC Media Representative (with a support system) engaging with posts that foster rape culture, explaining why they are problematic.

### **PURPLE THURSDAY AND THE ‘PURPLE RHODENT’ NARRATIVE**

Important to a discussion on institutional culture is the creation, at the University, of a ‘purple rhodent’ identity as a way to unify students and collectively celebrate and (re)create University culture. This is most clearly identified in the ‘Purple Thursdays’ initiative. Where attempts at unification do not adequately include and address diversity, however, there is a risk of marginalising and making invisible particular experiences by portraying a homogenous identity and experience. This is reflected in the ‘Purple Rhodent’ narrative that presents all students as enjoying equal opportunities at the University. It thus erases any differences in students’ experiences of the University, experiences that are mediated and shaped by individuals’ intersecting identities and backgrounds, which afford or deny them privilege in varying ways. Importantly, in doing so, the narrative takes the experiences of the most privileged students at our University and misrepresents these as the experiences of a unified and homogenous student body.

*Recommendation:* ‘Campus culture’ initiatives like ‘Purple Thursdays’ should be reviewed as part of the review of Institutional Culture undertaken by the Equity and Institutional Culture office, so that

students can engage with one another in ways that do not deny their different and multiple lived experiences while simultaneously celebrating their shared University experiences if they so choose.

### **INFORMAL GENDER SOCIALISATION IN THE CONTEXT OF IDENTIFIED ‘DRINKING CULTURE’**

The drinking culture at our University, whilst not necessarily a causal factor in sexual violence (as mentioned elsewhere in this report), could be viewed as an exacerbating one, in that it forms the backdrop against which specific gender and sexual socialisation practices occur in the University context (e.g. residence bars, digs formals, etc.). Some of these practices reinforce particularly problematic views about gendered identities and their expressions, as well as about sexuality (heterosexuality in particular) that normalise aggressive, competitive, and conquest-oriented modes of sexual interaction and adversarial sexual beliefs. These attitudinal factors, together with risky alcohol usage in dating situations, have been argued to be key aspects of University community beliefs and practices that are related to high incidences of sexual violence (Banyard, Plante, & Moynihan, 2004).

In order to address this issue, it will be necessary to look at the expectations that are set up by highly problematic, heterosexist, and body-shaming practices such as ‘hunt-the-grunt’, ‘horse-racing’, ‘whale-harpooning’, ‘seal-clubbing’, etc. and how the existence of such practices serve to desensitise students to the reproduction of particular discourses and practices regarding gender and sexuality. Evidence for the existence of some of these practices as regular features of the University student life has been provided in recent years in student press publications during Orientation Week and have even (until recently) occasionally been published on parts of the University website.

Additionally, postgraduate student research has also identified these dynamics as forming a part of the University's drinking culture (e.g. Skarupke, 2010). That such student press publications have been addressed specifically at familiarising new first year students with the common parlance of the University's environment suggests not only the widespread nature of such practices, but also that they form a central part of the socialisation of new students into the culture of the institution.

Taken-for-granted terminologies and ways of speaking about casual sexual encounters that are commonly understood to be part of the 'Rhodes University student experience' are further aspects that warrant attention. The ways in which these have sometimes been uncritically addressed by student press - The Oppidan Press' article entitled *Rhodes for dummies: Speaking Rhodentese* (Online Editor, 2014) is a pertinent example - is particularly disconcerting given the potential role played by student press in shaping discourse. Such taken-for-granted terminologies and ways of speaking need to be addressed in interventions targeted at pointing out the normalised and possibly violence-supportive beliefs and attitudes that may be relatively widely held amongst members of our University community. It is particularly important to examine the prevailing culture within the University residence system in this regard. Many of the practices linked to these particular ways of speaking can often also be linked to student drinking behaviours (i.e. naps, or napovers), and this has been pointed out in some student research on the subject (e.g. Percy, 2009; Stuart, 2016).

What also requires attention, over and above the residence culture at the University, is the nature of social life for Oppidan students (i.e. those living in rented accommodations not on campus) and the social milieu of student sport and social clubs. Digs life is common amongst more senior University students. Consistent with international research literature into sexual violence on University campuses, situational variables such as the kind

of problematic alcohol usage that is frequently associated with student patterns of drinking (Young & De Klerk, 2008; 2012; Young & Mayson, 2010) can be argued to be a causal factor in sexual violence perpetration (Banyard, Plante & Moynihan, 2004). In this vein, regular practices such as 'digs formals', or other types of house parties, arguably provide an atmosphere conducive to the occurrence of non-consenting sexual encounters.

Similarly, students clubs or societies (both cultural and sporting), provide a significant avenue for socialisation, including in gender norms. These student gathering spaces - whether at meetings, AGMs, the actual activity, or the parties associated with the club or society provide opportunities for the entrenchment or undermining the gendered norms underpinning rape culture.

It is vital to note that a general focus on addressing the drinking culture said to exist at our University and its relation to incidences of sexual violence should not be undertaken in a manner that in any way enables an interpretation of ensuing interventions as constituting implicit blaming of victims/survivors (De Klerk et al, 2007). Interventions should instead focus on the role of alcohol use in perpetrator behaviours, and in perpetuating gendered norms that enable rape culture.

*Recommendation:* Identified informal gendered socialisation practices on campus need to be unpacked and problematized in a range of spaces, including as part of Orientation Week activities, student media, workshops with wardens, and in the recommended common course. For example, for the 2016 O-Week edition The Oppidan Press partnered with the Gender Action Project to produce a double-spread explaining the terminology and ideas being used in the protests and in conversations about social justice and sexual violence on campus.

*Recommendation:* A conscientising campaign organised through the proposed Student Safety Forum is recommended in relation to gendered practices around drinking. In particular, a campaign

around “enthusiastic/affirmative consent”<sup>1</sup> in Grahamstown’s bars is recommended. This campaign can be used to conscientise students regarding some of the identified practices relating to drinking culture at our University, particularly where the drinking culture overlaps with or reinforces rape culture. The Eastern Cape Communication Forum (ECCF) in the School of Journalism and Media Studies have been engaged by the task team and have agreed that, upon the creation of the proposed Student Safety Forum outlined later in this document, ECCF would be willing to help with the implementation of media projects around the idea of affirmative/enthusiastic consent.

*Recommendation:* Oppidan wardens should engage with Oppidan students regarding gendered practices that occur within digs (in particular digs formals, which are ‘blind date’ drinking parties). In addition, the SRC needs to set up mechanisms to imbed these issues within the student clubs and societies.

*Recommendation:* In order to support the formal work being done at curriculum level, it is recommended that halls and residences be developed as spaces for conversations, deliberation, or sustained dialogues about rape culture and sexual violence. Residence culture will need to be addressed alongside curriculum activities, first, through the appropriate training of residence staff. Second, the position of an Anti-Sexual Violence Representative needs to be established on the House Committees of all residences and in the Oppidan Committee. This portfolio should include fostering conversations about sexual violence, patriarchy and rape culture as well as being trained in temporarily handling and correctly directing any cases that may be brought to them.

<sup>1</sup> Enthusiastic/affirmative consent represents a move away from the common understanding of “no means no” to “yes means yes.” Open communication and mutual respect are encouraged, with the absence of declining sex not being taken as affirmation.

### RESIDENCE INTER-VISITING RULES / THE VISITING RULE

Residence inter-visiting rules have been identified by students and wardening staff as a problematic feature of the University culture for over 30 years (De Klerk et al, 2007). The disciplinary code refers to this as the visiting rule but ‘inter-visiting’ is still the term in common usage by staff and students. Visiting rules are stipulated in the Student Disciplinary Code (SDC), section 4.15 (Revised August 2015), as follows:

(a) While a student may receive visitors in a University student residence (this includes balconies, verandas and common rooms) no visitors are permitted in a University student residence between 24h00 (midnight) and 07h30 daily, without the express permission of the warden. All visitors to any residence must be escorted at all times and hosts are responsible for their guests’ conduct during this time.

(b) In application of the above rules, there are residence rules applicable to each hall of residence. Students are required to familiarize themselves with their own residence rules and to ensure that the friends / partners who visit them in the residence are aware of the relevant Hall or House rules.

Section 4.15 (a) of the SDC itself makes no specification regarding the visitor’s sex (male, female, intersex) or gender (transgender, queer identifying, non-gendered) and thus can be read to apply to **all** visitors. It also does not make any distinction between residences for female, male and both female and male students regarding which parts of the rules are applicable in each case. It therefore, can be read to be applicable to **all** residences. Despite this, there is great variation between the halls in terms of the application of these visiting rules, as evidenced in the hall rules on inter-visiting which, in most cases (for some halls this information is unavailable), can be accessed on the University



website under halls and residences (<http://www.ru.ac.za/residences/>).

Some halls have included in their hall rules pertaining to visiting an excerpt of the visiting rule as stipulated in the SDC. However, the excerpt quoted is from an outdated version of the SDC and is thus not reflected in the revised, current version (2015). Where halls have done so, the visiting rule stipulated in the hall rules are reflective of the problematic assumptions informing the visiting rule as stipulated in the previous version of the SDC, extracted below.

No visitor may be present at any time in a University residence (this includes balconies, verandahs and common rooms) if s/he is of the opposite gender to that of the students who are living in the residence concerned, other than in such places and during the official intervisiting hours, which must be published in the rules of the Hall concerned; provided that such rules may not permit intervisiting between 24h00 (midnight) and 08h30 daily, except after a Hall Ball in which case intervisiting will cease at 01h00.

There are two problematic assumptions reflected in the hall-by-hall application of the (outdated) SDC inter-visiting rule. The first is a heteronormative assumption that male students in residence will have female visitors and female students in residence will have male visitors, which is linked to an understanding that someone visiting a student in residence will be in a romantic/sexual relationship with the student in residence. This assumption not only excludes students who may have same-sex partners, but also fails to recognise that students may have other visitors such as friends or family (who may nevertheless perpetrate some kind of violation).

As such, the inter-visiting rule of each of the halls, except Drostdy and St Mary Halls, stipulate the sex of the visitor in accordance with heteronormative assumptions. For example, The Hobson Hall inter-visiting rule, after taking “visitor” to refer to male and female visitors, curiously stipulates that “no women are allowed in any male residence after midnight”.

The second assumption contained in the application of the SDC inter-visiting rule is that only female students in residence will benefit from signing-in/-out procedures. It is not clear what purpose this practice serves and why it has been selectively applied. It may be that the underlying assumption is that it will enable the identification of visitors/guests in the event of an offence or wrongful action (including sexual violation) having taken place. However, the purpose of this practice must be made clear in order for its effectiveness to be assessed. While one view is that sexual violence does tend to take on a particular pattern wherein women are the victims/survivors of violence perpetrated by men, there is a view that recognises that those who occupy marginalised positions tend to be particularly but not exclusively vulnerable to sexual violence. Having a visiting policy that does not reflect the latter view may have severe consequences, particularly if the signing-in/-out procedure is interpreted within the context of enabling the identification of (sexual) violence perpetrators.

Several halls consisting of both male and female residences quote the outdated SDC inter-visiting rule and then direct students to separate rules for women and men. Desmond Tutu Hall, Miriam Makeba Hall, Kimberley Hall, Lilian Ngoyi Hall, and Nelson Mandela Hall rules pertaining to inter-visiting require female students in residence to sign-in/-out male visitors but do not require male students in residence to do the same. Furthermore, visitors of the same-sex as their host are not considered in this policy. This fails to recognise that sexual violence is possible not only between heterosexual people but also between same-sex couples.

The exception to this application of the rule are Drosdy Hall, Hobson Hall and St Mary’s Hall in which the inter-visiting rule states that “visitor” refers to male and female visitors and there is one set of rules for all students within the hall to abide by. Founders Hall, consisting of male-only residences, is also an exception in stipulating that the signing-in/-out procedure must be applied.

Furthermore, Kimberley Hall is the only hall which has a note on personal security in the hall rules pertaining to women. The note, which is not included in the section of hall rules pertaining to men, is as follows: “Women students are warned of the dangers of lonely places, especially after dark. Security Guard escorts are available on request from the Campus Protection Unit (CPU)”. This statement may not only be interpreted to engender a culture of fear in female students but may also be interpreted as placing the responsibility for the prevention of (sexual) violence in the actions of female students. While increasing security measures is advisable and while it is also advisable that students be made aware of these measures, such information should not only be given to female students. Furthermore, such measures must occur alongside preventative measures that speak to education and the transformation of what is considered normative and acceptable (addressed in this report under issues pertaining to teaching and curriculum transformation).

*Recommendation:* Residence and hall wardens, as well as house committee members, need to engage with students regarding the creation of a non-sexist, non-heteronormative residence culture. This includes a review of visiting rules and residence security (in line with the view of residences as safe spaces).

### RESIDENCE ‘SERENADES’

Orientation Week ‘serenades’ (and other variations on this theme like RU Jamming) are a further aspect of socialisation into campus culture at this University that warrant attention. Although formal initiation rituals or ‘hazing’ have been outlawed, there are still some regular features of the Orientation Week Programmes for first year students that retain echoes of initiation practices. One such practice that has received some scrutiny recently is that of ‘serenades’. This practice – usually of pre-arranged, early-morning, inter-visiting between residence houses of different genders – has been conceived of as a means to foster social interactions and

connections between new students.

However, the practice – as has been pointed out elsewhere in this report – has frequently taken on a sexualised nature (both through the way in which the performance of songs with an overtly sexual nature form part of this practice, and through the pairing off of students for social interaction), suggesting that the purpose of Orientation Week social activities is to facilitate sexual liaisons between students. This practice has been publically critiqued for its sexualised nature and heteronormative bias by students and other members of our University community in student press and other fora. For example, in 2012, the practice of ‘serenades’, as it was called at the time, came under focus after a female student sent a letter to then Dean of Students, Dr Vivian de Klerk, about her experience of ‘serenades’. In the letter, the student describes the overt and subtle heteronormative rituals and messages that students in her residence, and others which are unlikely to be uniquely different, engaged in, sometimes under subtle or overt coercion. Furthermore, both Activate and the Oppidan Press have covered the issue, although sometimes in problematic ways. Activate’s article *Singing for sex* (Cadden, 2012) is one example. While the article in Activate acknowledges the “heteronormative nature of serenades” which “has always followed a flirtatious format and often involves sexual innuendos – some more overt than others”, it at other times takes such practices for granted, ignores the implications that being coerced to participate in such activities may have and fails to link such practices to the treatment of women in general: “Couldn’t it be argued that we see similar if not worse things in television and music?”.

Students’ responses to the ‘serenades’ letter sent to the then Dean of Students included two kinds of responses. In the first type of response, having or perceiving a lack of choice in whether to participate in ‘serenades’ was questioned. However, that students in residence may not feel able to freely exercise their choice is to be understood and is



an effect of power relations between students and house committee members and/or sub-wardens. If the option to choose to not participate is not explicitly stated and emphasised, students may feel obligated simply because the instruction or request has been made by a house committee member or sub-warden. In the second type of response, a negative experience of serenades was marginalised and invalidated. This was done in two ways. In the first through comments which emphasised the mostly positive experience others have had with 'serenades' (which too must be acknowledged) and the second through comments about the friendship and camaraderie intentions behind 'serenades'.

In recent years, there have been attempts to tone down or even replace the practice of serenades with other competitive activities. In 2012 Dr Vivian de Klerk announced that the practice of 'serenades' would be looked into but not stopped. From 2013 onwards, 'Serenades' were called 'RU Jamming', an attempt to refocus the practice and transform it into a competitive activity in which residences could engage with the hopes of winning the competition held at the end of Orientation Week. Restrictions were placed on the dancing and the content of the songs so as to remove any lewd visuals or connotations. To our knowledge, apart from the Quality of Residence Life surveys in which a statement was included on students' orientation experience for the years 2012 and 2013, there has been no investigation or attempt to document whether 'RU Jamming' has retained any of the heteronormativity and sexism of 'Serenades' or has been effectively transformed, and what students' experiences of 'RU Jamming' are. Given the problematic history of 'Serenades', it would be pertinent to conduct some kind of thorough information-finding activity around 'RU Jamming', given the potential for this practice to encourage or coerce (to varying degrees) students to heteronormatively engage in the sexual objectification of themselves and of fellow students.

*Recommendation:* 'RU Jamming' which replaced

'Serenades' should be reviewed. This could take the form of the inclusion of an open-ended item in the Quality of Residence Life Surveys, if re-instated, asking students to describe their experiences. Alternatively, a study or qualitative survey focusing specifically on students' experiences of this event could be conducted or developed. The results of this should be widely publicised, along with the results of the previous investigation that Dr Vivian de Klerk (no longer at the University) committed to instituting. If the results do not confirm students' experiences of coercion (even implicitly), heteronormativity and harm, the activity may be allowed to continue. It is suggested that if RU Jamming is found to be heteronormative in nature, that another activity be created, with clear rules that will be enforced by a SRC representative. It is recommended that all those who choose to participate are required to abide by the rules or face disqualification. A suggestion could be a musical piece that reflects the identity/spirit of the residence. Alternatively, students themselves could send suggestions to the SRC and the best one selected by the SRC.

## TRANSPARENCY OF REPORTING OF SEXUAL VIOLENCE CASES

The Rape and Sexual Violence awareness week in the University calendar, instituted in 2007, (De Klerk et al., 2007) has been discontinued, or subsumed into other activities in a less visible fashion. The current Directorate of Student Affairs has discontinued the public reporting of cases of sexual assault on campus (and the outcomes of the ensuing disciplinary cases) to the broader University community for privacy reasons. Such reporting of cases and the disciplinary consequences for perpetrators of sexual violence used to be undertaken by the Dean of Students Division (De Klerk et al., 2007).

*Recommendation:* The DSA and/or the proposed Sexual Harassment Office should keep a formal record of all reports of sexual harassment and sexual

violence for the purposes of aggregated reporting to the relevant University structures. Regular reports (e.g. each semester) should be made available to the University community, but without endangering the privacy of those who may wish to report.

### RESPONSES TO INSTITUTIONAL CULTURE REPORTS

Institutional responses to reports on transformation and institutional culture (which feed into sexual violence) require attention. In 2008 a national report on racism in Higher Education, led by Prof. Crain Soudien from UCT was released. The report also identified issues pertaining to patriarchy and sexual assault as key aspects of institutional culture in Higher Education that would need to be addressed. It was noted that this University was mentioned in this report as having compiled its own internal survey on institutional culture to be submitted as part of this national review. The existence of this and other reports on institutional culture (for example, reports from the Gender Imbizos held over the last 10 years), and the recent experience of a crisis situation at the University suggest a particularly pertinent systemic issue with regard to addressing problem aspects of institutional culture: that the nature of these problematic aspects is frequently already known, or have been identified and reported on in various ways; and that frequently good recommendations emerge from these investigations; but that these recommendations are perhaps not always followed through effectively, possibly due to the need for stronger institutional structures in order for them to be taken forward. Given this, it is noteworthy that particular ways of addressing sexual violence, such as through protest action and disruption, have not been consistently embraced by University structures.

*Recommendation:* The Office of the Vice-Chancellor together with the Equity and Institutional Culture Office should develop a monitoring and evaluation framework to check the progress of reports relating to institutional culture through the University

structures and the progress of implementing the agreed upon recommendations.

### REGULATION OF STAFF-STUDENT RELATIONSHIPS

Discussions following the ##RURferenceList protests have called attention to romantic or intimate relationships between staff and students. A policy regarding these kinds of relationships was developed in 2008 and is available: (<http://www.ru.ac.za/humanresources/academicstaff/conditionsofservice/closerrelationships/>). However, it appears that there is not wide knowledge of this policy or that it has largely fallen into disuse.

An email, submitted by a staff member to the task team, raised concern around this issue and stated that current practices follow informal procedures which vary from department to department, where such procedures exist. Students have themselves stated that such informal procedures are not enforced. These may include (as is stated in the policy that was developed): the requirement of a declaration, made by a member of staff, of a staff-student romantic relationship so that procedures (for example, a lecturer may be recused from the marking of any assessments) may be instituted before any favour or disadvantage may unduly accrue to the student involved in the relationship.

Three issues require attention, however. The first is that the student, when approached by a member of staff (whether inside or outside learning/work spaces) wishing to initiate a relationship, may not feel able to refuse if it is their desire to do so due to relations of power between staff and students. Conversely, a staff member may feel they have little recourse when approached by a student. The second is that where a member of staff is in a relationship with a student, said student may benefit unfairly with regard to assessments or any such favours and general departure from normal procedures or due process.

Thirdly, if the relationship breaks down, the student

may, conversely, be unfairly disadvantaged.

The Staff Disciplinary Procedure (updated 2011) lists types of offences such as ‘violence’, ‘harassment and unfair discrimination’, and ‘abuse of position/ authority’ as offences which when committed by University employees may receive some kind of disciplinary action. Staff-student relationships may reasonably fall under these categories although staff-student relationships are not directly or explicitly addressed in any of them.

Unfair gain is not the only issue to be raised in this matter. While it is not useful to presume that **all** staff-student relationships are entered into, where the student is concerned, from a sense of obligation, intimidation or some inability to refuse, formal procedures should exist to protect students in the event that staff-student relationships come about as a result of and are shaped by inequitable power relations. Such procedures should have mechanisms for determining, in a sensitive and supportive manner, whether a relationship declared by a staff member has been willingly and desiringly entered into by the student, with the student’s statement being given greater weight. These procedures should also include disciplinary processes to be followed in the event of a determination that the

student did not consent to intimate relations or a relationship (for example, the referral of such a case, should the student wish it, to the task team’s proposed Sexual Harassment Office). Certainly, to avoid a ‘laissez faire’/‘self-governance’ approach that seems to be adopted in general by the University structures (for example, residence inter-visiting rules discussed earlier in this document), it is necessary that one policy/protocol/set of guidelines be developed and that it should be applicable to all members of staff irrespective of department, faculty or division. This policy could be drawn up by the proposed Sexual Harassment Office and should strongly rely on the experiences and views of students (and staff) who should be invited for their input.

*Recommendation:* The policy on relationships between staff and students should be revisited and updated, with consideration being given to students’ statements regarding these relationships. The policy must apply across all categories of staff and students, and should be well-publicised, with all HoDs and Heads of Divisions being aware of, and abiding by, it.

## PART 6

## PROMOTING CONVERSATIONS

## Guiding Principles

**Combating rape culture requires that all members of the University community need to participate in conversations about the internal and external manifestations of rape culture. Constructive conversations of every kind (including formal, informal, those related to curriculum or not, confrontational or uncomfortable), which are not violent, disrespectful, or hierarchical, should be encouraged.**

The only way that the University can begin to deal with the issues raised during the course of the April 2016 protests is to set aside an antagonistic approach to discussions. The process of moving towards a more human approach to each other must begin with a change in the ethos of institutional responses towards the constructive conversations and deliberative democracy contained in this and the next sections respectively.

Academic spaces can be alienating for students because particular formal academic discourses tend to be used. There is very little participation, if any, from students in such environments, not because of a lack of interest but because of anxiety and fear of being wrong or not speaking well. Formal academic spaces may not always be the best spaces to address topics that are already 'uncomfortable'. Non-formal spaces in which students can learn about rape culture and patriarchy should be set up. It is important that people feel free to share their views and learn without being afraid of being wrong or sounding correct.

Feedback from the various departments across campus indicate that many staff members experience difficulty with or are unable to engage students on issues pertaining to sexual violence, rape culture, and patriarchy. Related to this are discipline-specific contexts that make it very difficult or impossible to make such changes to curricula. This occurs in faculties where it is argued that issues of sexual violence are not directly pertinent to the curricula. This is recognised as a valid challenge and thus the suggestion of developing conversations in non-formal educational spaces needs further consideration. The central goal of these spaces is to foster personal change aimed at dismantling patriarchy and rape culture through dialogue, encountering others, and mutual respect.

Academic self-development, curriculum development, teaching and learning, and pedagogy are addressed in the Curriculum Conversations currently being co-ordinated by the Centre for Higher Education Research, Teaching and Learning (CHERTL). CHERTL Curriculum Conversations, the CSSR GASP Conversations, and other such conversations should include more students and have wider reach and support in the long run. This process has already begun with the first student-staff Curriculum Conversation: *Student Voices: Manifestations of Rape Culture in our Curricula* being a great success in terms of facilitating dialogue between staff and students.

In this section of the report, we outline conversations that could take place. We concentrate on the above-mentioned curriculum conversation case study and talk through the possibilities in terms of theatre productions and sustained dialogue interventions. In the next section we explore curriculum issues and talk about the deliberative democratic stance we suggest should be taken in this regard.

## CURRICULUM CONVERSATION CASE STUDY

In 2016 a student-led curriculum conversation concerning sexual violence and rape culture was held. Four students participated: Chelsea Haith (Chair); Lisoletu Dlova (Pharmacy); Khanyisile Mboya (zoBomi); and Jordan King (Humanities). In the following we describe their input and the audience reaction.

*Lisoletu's main concern was the intersection of the decolonisation movement and health care issues. She felt that Pharmacy students were not taught enough about healthcare issues. She said there was a need to divert from academic topics to talk about social issues they will face in the future when working in the community. Her final point was that the institution should move beyond talking/conversations because lecturers are aware of what they are saying and of the impact of what they are saying. In her view, conversations can absolve people of their violent actions.*

*Khanyisile based her presentation on her experience as a student facilitator on the zoBomi course. She posed a question to the audience: What kind of student does the institution want to produce? She advocated that the solution was to identify a particular type of student or teacher*

*and to identify a problem and move towards a solution. In her view, to endeavour towards a solution one needs to know what the problems are and understand the lived experiences of others. She also said that lecturers should not stop learning, they should be prepared to learn from students and they should not isolate themselves.*

*Jordan spoke about her general experiences in the Humanities Faculty. She said that many conversations were taking place but that some lecturers and tutors allowed all viewpoints equal authority. This resulted in problematic views being given air without being problematised and this was detrimental. She suggested that the lecturer should intervene. She said the difficulty was between balancing freedom of speech with protecting the vulnerable. She then spoke about the power dynamic between lecturers and students saying that the University is not premised on the notion that knowledge is a two-way process. She feels that lecturers have power and this power should be examined. She also proposed that there should be safe spaces to have "violence conversations" in which people disagreed, with a facilitator. She said that these conversations should be informed by intersectionality. Most importantly, Jordan advocated that the institution should create*



*spaces for conversations. There were many robust engagements from the audience (mainly members of staff).*

Some pointed out that in some faculties higher authorities determine the curriculum but that there is space to address concerns about sexual violence. Another pointed out that everyone needs to acknowledge their complicity as a starting point. They urged everyone to acknowledge their 'violence' and the individual's role in the system. Another staff member said that she had been embarrassed in the past to address issues of sexual violence (for mainly cultural and linguistic reasons) but that she now realises that the curriculum needs to be innovative and transformative. A very cogent point was made about the diversity of knowledge and languages in the classroom – that appreciating this would help the general project of tackling rape culture. Another academic said how difficult this process was, of negotiating the dangers and risks of holding these conversations. This person advocated specialised training for academics. One academic pointed out that the "generational gap" should be noted. Another said that it was key to transform the policies and procedures of the institution as well as the curricula. Then it was noted that lecturers should validate students' input e.g. when students make suggestions about curriculum change or share a resource. A final question was posed: How do we reach the ones who need to unlearn and change?

Following this example, we note that giving staff and students the opportunity to engage in a safe and equitable environment allows constructive debate about issues that are pertinent to both, and that fosters understanding between both groups. These types of conversations facilitate the understanding of collective complicity and participation in rape culture of all members of the institution. Students learn of the difficulties faced by staff and staff may learn ways that they can incorporate such issues as sexual violence into their teaching practice. Staff members are alerted to the ways in which the power dynamics and hierarchies established by

the institution play into the classroom situation, and similarly, conversations allow students to understand the challenges academic staff may face in the classroom and to voice their own experiences of harmful discourses or power dynamics that make them uncomfortable in the learning environment.

*Recommendation:* Opportunities for more conversations between staff and students about curricula and issues of sexual violence should be facilitated. These conversations can be organised by centres such as CHERTL, or by departments, faculties, residences, student societies. To avoid topic-fatigue or overload, specific topics for conversations should be devised.

*Recommendation:* At the same time, staff members need a space for communal, supportive discussions about methods of embedding issues of sexual violence in their specific disciplines and curricula. The Deans' Forum and specific faculties should discuss the possibilities for these spaces. An online forum of some kind might be suitable for this purpose.

## THEATRICAL INTERVENTIONS: HARNESSING THEATRE AND PARTICIPATORY STRATEGIES AS A PEDAGOGICAL TOOL

### Recent Theatre Interventions

*The Amazing Other Show* was discontinued in 2015 and 2016. This show was extremely useful in developing opportunities for first year students to engage with issues of sexual health, sexual violence, patriarchal discourses, and transformation and in doing so become conscientised members of the University community. *Unzip Your Knowledge*, while being useful for teaching the contents of the RU students' handbook and explaining plagiarism, does not deal with concerns about sexual violence in any detailed manner. *Welcome to the Zoo* is an extremely explicit presentation of various factors and experiences that relate to sexual violence

and situations of patriarchal dominance that offers another way to engage with issues of sexual violence but can be quite triggering. *Mina Nawe* is another show that dealt directly with rape. One of Ubom!'s most powerful productions has been *Mina Nawe* as part of the company's mission towards behavioural change through impactful theatre. Heike Gehring, the director describes it as, "an exploration of the violent relationships that can exist between men and women." Discussions with the cast and director are held afterwards and students are encouraged to engage with the performers and creators and to ask any questions that the show has invoked. These post-performance discussions are a key element of this intervention. These interventions are in line with the sentiments expressed by Dolan (1993):

University theatres ... can be used for radical interventionist work, despite their location in academic institutions that sometimes militate against such thinking, by offering a forum for embodying and enacting new communities of performers and spectators, by actualizing the potential of well-meaning political buttons that two dimensionally purport to 'celebrate diversity'. (Dolan, 1993, p. 426)

In 2008, Dr Vivian de Klerk and Larissa Klazinga worked with the Drama department to create the first *Amazing Other Show*. Andrew Buckland and Alex Sutherland devised the show together with mainly Masters students as performers and co-creators. They worked together on it for the next 3 years<sup>1</sup>. It was then directed and re-worked each year by a young director (often an ex-student or recent graduate). It has been commissioned every

year since. In 2016 it was completely re-imagined and became *Abantu Stand*, directed by Andrew Buckland, and incorporated the changing landscape of student politics and activism, as a result of Fees/Rhodes Must Fall protests in 2015. The shows have always been episodic, using a range of scenarios and styles to introduce issues of power around race, gender, sexuality, class, xenophobia etc. After the show (which is usually 45 minutes long) a facilitated discussion takes place for another 45 minutes about scenes, attitudes, or characters that the audience wishes to discuss.

No concrete research has been done on the impact of the show, but anecdotal evidence suggests that year after year, wardens and students feel that it is highly successful in catalysing conversations and debates and opening up issues that are often simmering or rendered invisible.

### Why theatre?

In theatre, knowledge production is located primarily in and through the body. Dolan (1996) argues that performance is one strategy in an embodied approach to learning, which she frames as a political act. Not only is it political in embracing different domains of knowledge within the academy, but, by diffusing the mind-body split through performance, "a different epistemology, a way of knowing certainly not just ourselves, but the world" is introduced (p. 12). Arguably, what makes 'good' theatre within an educational context is one that is not only entertaining but asks interesting questions rather than providing answers: theatre that is exploratory rather than explanatory (Taylor, 1996). A theatre production can, therefore, be used as a catalyst to explore the complexities of life, society, and relationships. A carefully crafted piece of theatre is able to embody the nuances and ambiguities of lived experience. This is facilitated by the potential multi-dimensionality and multi-vocality of a live theatre experience, which combines visual, oral,

<sup>1</sup> Alex Sutherland made a decision to remove herself after 4 years stating: "we were never paid for producing the show, which is understandable, but it involved us giving up 4 weeks before Orientation Week, working full time, yet no-where was this labour acknowledged within University structures. While other academics were preparing wonderful courses or writing papers, (or at the beach) we were working to do the job of the Student Affairs Division. I point this out, as there is a danger that theatre can be used to tick boxes and be a sexy communication tool, or, 'perform' the work of other structures with little acknowledgment".



aural modes of communication and experience. In addition, theatre is a social, embodied activity: we need to be present to and with each other to partake in it. Social interaction happens before, sometimes during, and after the ‘event’ – thereby aligning the whole experience – on and off stage - with a social and relational approach to pedagogy and knowledge production. The educational potential of theatre also involves a whole person approach, in its ability to address and acknowledge the social, emotional, cultural, physical, psychological, and political aspects of our lives. For these reasons we believe that theatre can be one tool that can potentially result in change, reflection, and learning around sensitive issues such as sexual violence.

Perhaps most importantly when finding innovative ways of dealing with difficult subject matter such as sexual violence, a theatre production can provide aesthetic distance – this enables an audience to project onto the fictional ‘world/s’ and characters of the play, which often provides a more contained and safer way of revealing, tackling, or making visible sensitive issues than more direct interventions. The following is a quotation from a focus group interview Alex Sutherland conducted with student performers about their experience of the show:

*I sub-wardened for two years and had to bring my first years here to watch it. During the whole of Orientation Week ... we have got to do all of these workshops with these kids, and nothing was more effective than The Amazing ‘other’ Show. I remember walking back from watching last year and I remember my girls talking from the moment they left. I think the reason theatre is so effective is because it personalises things so much, we are right there and it’s a very tangible experience. You are there, you can see the actors sweating, you can smell them, you can hear them, and really there is a lot to be said about a visceral experience, you can just feel it as opposed to just witnessing. (Nadine, focus group interview, February 2010).*

### Challenges to incorporating theatre as an intervention or catalyst

We have argued above that one of the unique features of theatre that make it potentially effective as an intervention is the live, person to person engagement that forms part of the medium. However, such a feature also introduces a number of challenges including: cost, time, reach, and resources – which will all be considered in greater detail below (discussion appearing in italics indicates points for consideration).

**Costs:** Theatre is costly. Up until now the show has always been performed by students and this is a fundamental part of its success: the process draws on their own experiences, and the performers are also relatable to the audience. Students’ costs are always covered for the rehearsal period, which has been outside of University terms (meals and accommodation) but their participation is viewed as a learning experience. Students in our department consider participating in the show as a huge privilege and learning experience. If paid actors were used, this would increase costs significantly. *Prof Sutherland argues that if the University wishes students to perform in term time (which is very difficult given the fact that they are needing to do their own courses and course work), this should be paid.* However, if students are the ones performing, this fundamentally limits any options for repeat performances later in the year, or follow up strategies (see later recommendations).

**Resources:** In addition, there is significant pressure on theatre resources (staff, space, technology) – it cannot be assumed that such an intervention could be available at any time of the year. *Perhaps other types of spaces or interventions could be considered: common rooms/dining halls etc.*

**Time:** Creating, performing and sustaining a new theatre work takes considerable time. This needs to be factored into the two points relating to costs and resources. However, it also demands time from

audience; so the timing and accessibility needs to be carefully considered. One of the limitations of the O-Week shows, was that if a warden in a particular residence (by the way, ALWAYS a male residence) did not think it was important, he would just say to the first year students, 'no, you shouldn't really have to go to that'. And they just wouldn't come. *If any educational intervention is considered, we need to find ways to open it up to those who usually decide that the easier option is not to attend. Without significant buy in from key stakeholders, we end up performing/preaching to the converted.*

**Reach:** Theatre is not a mass medium – which educationally is a strength. In the O-Week show, it is always performed to a full house – 340 students at a time. This allows the University to 'reach' all potential first year students, but pedagogically, it is not the most effective practice. *If significant discussion or debate is going to happen, the piece should happen in a smaller space with a smaller audience. This would perhaps also facilitate other strategies rather than 'perform the show' then 'talk about the show'. This might involve partner discussions, small group work, forum scenes (whereby audience members take the place of a protagonist within a scene to try out another way of gaining dignity or power within the space), creating alternative endings for characters or stories, etc.*

**Recommendation:** The use of a theatre intervention as a pedagogical tool to bolster the various other (curriculum included) activities on campus which tackle rape culture and sexual violence is strongly advocated but with many provisos. If theatre is considered an effective pedagogical tool, the University cannot expect that 'the drama department will do it' without recognition for student and staff labour, either monetarily or within other reward structures. The issues/stories/scenes will need to be scripted and developed with other sectors to ensure quality and impact. Janet Buckland's company Ubom! is a useful conduit which has been used regularly to help administrate the production and contract key people, and run the whole project. A strong and

experienced director is required to ensure that what is created can reflect complexity and sensitivity. This person will work with diverse University constituents to research topics and gather views and opinions and key issues that can be translated theatrically. The start of the year is not the most ideal time – or – the play or scenarios need to be revisited mid-way in the year. This has implications, however, if students are involved as they are often busy with their University work. The alternative is that it is outsourced to a professional company such as Ubom!. Perhaps a model in which short scenarios are developed (20 minutes) and then played in smaller spaces (lecture venues/common rooms etc.) followed by more interactive strategies around the scenario or characters presented would allow for a deeper more manageable engagement. This would require finding a skilled facilitator to run these sessions multiple times in multiple spaces. Decisions will be needed as to whether such an intervention is 'extra' to curriculum or embedded within certain curricula. The task team recommends that Ubom! be funded to resurrect *Mina Nawe*, to adapt one of the other shows to deal adequately with representing rape culture on the stage or to develop new theatre interventions as suggested above. Crucial to these interventions are post-performance conversations and the interventions should take place at least two or three times a year so as to sustain the conversations and thinking about rape culture in the student body.

## SUSTAINED DIALOGUE

Sustained dialogue is a systematic, prolonged dialogue among small groups of citizens in a community committed to change. To create lasting change, the Sustained Dialogue Institute (SDI) suggests that relationships need to change. Problem solving is ineffective without attending to the tensions in the relationship first. The relationship between certain student groups and senior administration is a case in point. Changing relationships takes time and sustained dialogue

requires commitment and group ownership. As dialogue is listening, changing and respect for others' valid human claims, it can be distinguished from debate and discussion. It is listening deeply enough to be changed by what you learn. According to the SDI leadership manual (2016) there are five distinct stages of relationship transformation in sustained dialogue:

1. Identify the leadership and participants and set up the space and time in which to meet;
2. Listen deeply to the experiences of the participants and determine what the main issues of concern are i.e. what needs to be focused on;
3. Shift from telling stories and describing the issues to analyzing why the issues exist, how various groups are experiencing the issue, and what improving those issues might look like;
4. Moderators help the group think about all the possible ways for doing something. What are some possible solutions or ways of positively impacting the problem? What would a better future look like? How do we go about accomplishing these solutions? What power and resources do we have? What are the obstacles?;
5. Carry out the action plan developed in 4. Evaluate the effectiveness of the plan.

Guidance on developing existing initiatives and establishing a framework of 'sustained dialogue' at this University can be provided by organisations like the SDI, which runs a network of affiliated projects on 45 United States campuses as well as eight campuses in Africa. SDI has produced some manuals, which the task team can make available to interested parties. These manuals suggest possible ways forward in a clear and non-prescriptive way, and provide resources for 'training' facilitators/moderators in the deliberation or sustained dialogue methodology.

According to the SDI leadership manual (2016), the first step would involve conducting a needs

assessment and working out the most appropriate paths to advancing further conversation and action on campus<sup>2</sup>. Then the next question is "Who would organize sustained conversations?" According to the SDI, some options might include:

1. A student club (entirely student run with student only conversations);
2. A student group supported by academic staff (students moderate student and/or student/staff blended conversations, and staff help organize and coordinate);
3. Organised by academic staff, with paid student moderators (logistics are organized by staff members, and student moderators are paid for their time);
4. Organised by wardens and sub-wardens in the residence system;
5. Organised by the transformation office.

Another question is who would participate in these conversations? Some options include:

1. Students across residences, faculties, and departments;
2. Academic staff from various departments engage in conversations to discuss curriculum implications and other issues;
3. The entire University community collaborates on mixed student/administration/academic staff/support staff dialogues to discuss policy, curriculum and institutional culture;
4. The wider Grahamstown community.

It is important to recognize that the normative ideals of sustained dialogue may be especially difficult to achieve in highly unequal and culturally diverse

<sup>2</sup> This, it should be noted, has been the primary method and mandate of the Sexual Violence Task Team. This report acknowledges the existence of many initiatives on campus which are informed by the same or similar principles as contained in the theory of sustained dialogue.

societies and communities like our own. Iris Marion Young finds that some theorists of deliberative democracy “assume a culturally biased conception” about what is a “better argument” (Young, 1996, p. 121). People of certain cultural, educational, or social backgrounds can be disadvantaged in public conversations because they feel intimidated by the formality and rules of such discussion. Such people may rely on exploration of emotion and ideas rather than the logic- or reason-driven arguments that are seen as superior in such settings (Young, 1996, p. 123-4, p. 133). Thus “they do not speak, or speak only in a way that those in charge find ‘disruptive’” (Young, 1996, p. 124).

Furthermore, in public conversation, differences are often discussed only in order to find ways to transcend those differences, which are seen as partial and divisive. Instead of assuming that discussions must begin with mutual problems, shared values or collective understandings of the common good, Young (1996) presents the concept of ‘listening across differences’. She argues that by expressing, questioning, and challenging the knowledge of different individuals and groups, people can be transformed at three levels:

1. Encountering differences of culture, needs and social position can help participants to realize their own biases and predispositions;
2. It can lead participants to understand that collective policies are not always about shared interests, and that they may need to recognize and accommodate the unique needs of people in special or different situations;
3. Participants are exposed to a wider picture of the factors that have shaped their perspectives. While they are not expected to abandon their old perspectives, it may increase their wisdom for reaching just solutions.

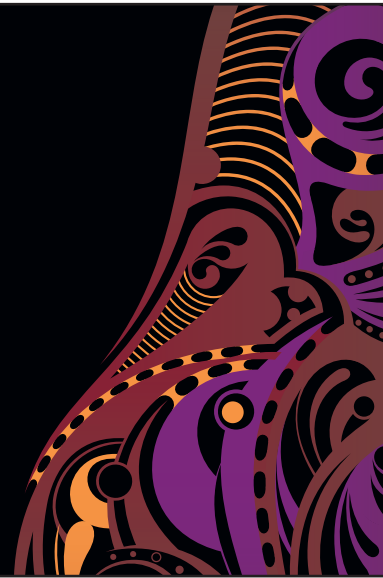
For members of the institution to actively engage with issues such as rape culture, opportunities

must be created for conversation, deliberation, and sustained dialogue but we may have to let go of the solution-oriented stages 4 and 5 in the model outlined by the Sustained Dialogue Institute.

*Recommendation:* It is recommended that the proposed Sexual Harassment Office, together with the Equity and Institutional Culture Office support a range of units/bodies within the University (student clubs; SRC; student and academic groups; wardens and sub-wardens in the residence system; academic and administrative departments) in engaging in sustained dialogues. Input on how to conduct such dialogues could be given together with support in deciding and training moderators/facilitators and on-going support during the process.

## PART 7

# CURRICULUM AND CREATING DELIBERATIVE TEACHING AND LEARNING SPACES



### Introduction

**Bearing in mind that the primary aim of embedding issues of sexual violence in the curricula of the institution is to counter rape culture by developing awareness and critical thinking in students, the following issues are discussed:**

1. A common course so that all students of each of the six faculties engage with the issue of sexual violence;
2. Faculty responses to curriculum issues regarding sexual violence;
3. Approaching issues through deliberation and sustained dialogue.

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### A COMMON COURSE

The *liNtheto ZoBomi* course currently run by the Allan Gray Centre for Leadership Ethics is a wide-ranging participatory course that seeks to investigate key issues pertaining to our nature as agents - ideally effective ethical agents - in a genuinely practical way, aiming to motivate students to become agents in the superlative sense. In this course students: 1) investigate the notion of effective ethical agency as it pertains to their own lives, 2) foster a sense of themselves as critically engaged citizens and leaders through community engagement and group

discussion, and 3) raise awareness of the self, other, and world by investigating their moral commitments via an intersectional lens, that is, a lens that highlights the complex and messy circumstances of their lives. Special attention is paid to race and racism, gender, sexuality, class and classism, and colonialism as they pertain to the post-apartheid South African context.

While it is not a common course, our suggestion is that it be developed into one, and that it function as the foundation for what such a course could constitute. This course could be tailored to include



more focus on sexual violence and related issues and be run across campus as a general compulsory course on critical thinking and ethics. With the input of Pedro Tabensky and Lindsay Kelland, we thus identify the *liNtheto zoBomi* course as a prototype course that has scope for expansion into a wider ranging and perhaps compulsory common course that can be completed by every student who enrolls at the University. The logistical and financial implications of a common course will need to be carefully and collectively planned. Research into interventions of this kind at other South African universities has shown that no such course currently exists elsewhere and that faculties deal with the theories and discussions of sexual violence in their own capacity when they deal with it at all.

An alternative approach, or one that overlaps with the zoBomi course, is online courses. Online courses such as *Haven and End Violence Against Women International's Online Training Institute* are online systems currently being used in some American and British universities. They are effective as methods for disseminating information and training on sexual violence. However, research shows that short online courses on sexual violence are not particularly effective in meaningfully transforming a culture (Anderson & Whiston, 2005). As a result courses need to be long-term (year-long) or have follow-up/refresher aspects that include some kind of interpersonal contact and engagement to be effective. Crucial to this would be the training of facilitators/tutors who would run these courses.

The common course could function as a DP requirement rather than as a part of a degree credit so that it does not detract from the vocational/professional degrees. There appears to be strong support from both students and staff for such a common course. Both the Dean of Science and the Dean of Commerce recognise the need for training of their students in such areas but point out the lack of capacity in their faculties. The DVC for Academic and Student Affairs also expressed support for a common course.

*Recommendation:* The University should consider implementing a common course across the University at undergraduate level as a DP requirement. The course should include issues of social justice, transformation, and sexual violence. The course could have online and personal contact aspects, with facilitators monitoring and assisting in discussions. The *liNtheto zoBomi* course can function as a template for such a common course.

*Recommendation:* An online course mapped onto the *Haven* system but that accounts for the South African context of rape culture, and perhaps drawing on theory from Pumla Dineo Gqola's book *Rape: A South African Nightmare*, should be made compulsory for students entering the University. It would need to be implemented campus-wide initially but after this initial roll-out it could be implemented solely at first year level.

## FACULTY RESPONSES AND FORMAL CURRICULUM REVIEW

The Deputy Vice Chancellor of Academic and Student Affairs, chair of Head of Departments' Forum, and chair of Deans' Forum all suggested that the Curriculum Review was a key tool to be utilised to ascertain how issues of sexual violence can be embedded in the curricula. Although a campus-wide Curriculum Review is currently underway following calls to decolonise the University in 2015, this process needs to be expanded further to encompass how lecturers and tutors are engaging with issues of sexual violence and whether students feel that these issues are tackled appropriately if/when they are addressed in the learning environment. Currently, as reported by students, problems in the curricula range from issues of sexual violence being totally absent to some teaching styles including rape jokes, misogynistic language, and erasure of transgendered identities.

A report from the Dean of Commerce (see Appendix 7) provides an overview of the Faculty and comments on matters pertinent to the inclusion of issues of

sexual violence in the Commerce curriculum. The report makes recommendations specific to the Faculty and also expresses strong support for a common course. Many of the recommendations in this section reiterate or echo recommendations made in the other sections of the Sexual Violence Task Team report. A key recommendation is as follows:

Faculty is of the view that no single person, course or department should take sole responsibility for inclusion of, for example, issues of sexual violence in their curriculum nor should any person, course, or department consider themselves exempt. Rather, Faculty should strive to ensure that the total experience of students over the course of their degree (time at the institution) is such that it includes attention to issues of sexual violence. That is, appropriate places need to be determined at which issues of sexual violence can be included in the total experience of students. Specific care should be taken to ensure that inclusion is not tokenist, contrived, and/or superficial.

One of the most common challenges across this campus is the perception that certain disciplines are simply not able to incorporate issues of sexual violence into their curricula. Many valid arguments have been made to support this claim and it is also evident that many disciplines are ill-equipped to tackle issues of sexual violence in a meaningful, transformative, and long-term manner. Nevertheless, there are a range of examples of attempts to meet this challenge. For example, the 'Science for Society' and 'Maths for Social Justice' clubs offer interesting ways to incorporate discussions about sexual violence into curricula that do not typically offer scope for engagement in these discourses. The premise is that when we see Maths as a human activity that is fundamentally about making sense of the world, it does not seem ridiculous to try to make sense of social justice issues, such as sexual violence, using this human tool of Mathematics.

How we talk about sexual violence, how we collate, interpret, and transmit the data we have about it, matters. This is not a co-curricular activity – budding mathematicians should be exposed to this philosophy of Mathematics and to feel empowered in their degree to be able to engage with the world and to make sense of it.

What follows are three examples from a resource about immediate responses to the April 2016 protests. These are included here as examples for staff who feel unable to approach these issues in their classrooms. These are direct testimonies from staff who responded to a request to all staff to share this information.

*CLA 101: Instead of continuing with the theme of the Classics and imperialist ideologies, I decided to explore with the class two ancient Greek myths - one of which explored the resistance of a group of women to enforced arranged marriages and 'sanctioned' rape (by the patriarchal marriage alliance system), whilst the other was a brutal tale of rape within a family, which culminated in the removal of the raped woman's tongue (to silence her desire to speak out and name her rapist). This iconic image of the silencing of women provoked comment and discussion.*

*For my third year computer science class, I replaced a lecture and freed up time for a discussion on the crisis and how we should react to it. Apparently this was taken well, as I have had feedback from colleagues in the Humanities about the fact that this could happen in my department, which is supposedly unusual. I used a whole lecture for a presentation on sexual violence (and the current protests) for the CS1 class. It seemed to be well-received. You can find it [here](#).*

*As part of the 2nd year Pharmacy Practice course I dedicated a lecture period to discussing how pharmacists deal with issues of rape and/or suspected rape. I started off*



*by providing them with a scenario, and we discussed how pharmacists i.e. professional health care practitioners deal with this. Two second year Pharmacy students - who are also part of Chapter 2.12 - helped facilitate this discussion, and we ended up discussing some of the social and psychological aspects of rape and the rape culture. Several students came to me afterwards, thanked me and said how useful it had been. We discuss different topics in different settings in order to prepare our students and help them become pharmacists. It isn't a topic I normally approach in such a way. Sometimes we talk about rape or the possibility of rape e.g. when dealing with emergency contraception, when discussing abortion protocols, post exposure prophylaxis etc. I've certainly never spent a whole lecture dedicated to it like this before. Some students had personal stories to tell, so it was good to have a platform for them to say what they wanted to. For example one student said that we do have a rape culture in SA and in her opinion it begins in the home. This led to interesting discussions. I facilitated the discussion with the two students, and made sure there were no "attacks" on people for sharing their opinion.*

**Recommendation:** It is recommended that ALL faculties engage in a similar process to the one engaged in by the Commerce Faculty (see Appendix 7) to consider how issues relating to sexual violence and rape culture (and other issues relating to social justice) may be included in the Faculty curriculum. The report produced by the Commerce Faculty may serve as an example. It is recommended that reports from faculties serve at the Deans Forum and at Senate and that it form part of the formal Curriculum Review process that is currently underway.

## DELIBERATION AND DISRUPTIVE PEDAGOGIES

The tools of deliberation or disruptive pedagogies are considered appropriate mechanisms for engagement in sensitive issues such as sexual violence. In the following sections we outline the implications of these approaches. Faculties may consider taking on these approaches in their courses. CHERTL could consider incorporating a focus on these methodologies in their support of lecturers in confronting sexual violence and rape culture in their courses.

### Deliberation

While deliberation may be implicit in many courses taught at the institution, it is rarely taught or practiced explicitly in classrooms. Deliberation engenders specific skills. Deliberation aims to establish the common understandings within a 'community' about the nature of their problems and to facilitate discussion and consideration before a decision or action is made. From there, the participants frame different ways of responding to the issue, appraise the consequences of each response, the resources needed for action, and the ways in which communities might be organized so that their disparate efforts contribute to mutual goals<sup>1</sup>.

For a 'deliberative' approach to work effectively, the classroom should be reconfigured as a hospitable site, linking the academic and 'real' world and the effect is to increase students' efficacy as members of a community. This kind of engagement with issues such as sexual violence can ameliorate problems of vertical social and political power in discussions about these issues. There is scope for processes of deliberation to be deployed by lecturers and academics in the classroom as well as by students in their own capacities to foster dialogue. It is important

<sup>1</sup> The Sexual Violence Task Team may be viewed as adopting a deliberative approach in its response to sexual violence in the community. Also, the zoBomi course may be described as adopting a deliberative approach to developing ethical agents.

that in deliberative spaces opportunities to engage in the debate are open to all stakeholders so that people may learn what other stakeholders' concerns are as well as making the process of solution-finding equitable. In much the same way that conversation makes concerns of equity more pressing, deliberation can lead participants to understand that collective policies are not always about shared interests, and that they may need to recognize and accommodate the unique needs of people in special or different situations. Deliberation premises emotion and experiences as equally important as reason and rationality. Testimony is key to this method of deliberation.

Another value of adopting deliberation as a teaching practice as well as a subject of learning is that it addresses considerable communicative imbalances, disconnects, and tensions in contemporary South African civic life. Politics is dominated by adversarial protest, much of it inchoate, rather than careful and sustained public deliberation. There are disconnects both 'vertically', between the centres of social and political power and citizens/civil society, and 'horizontally', among citizens themselves. For members of the institutional community to actively engage with public issues such as rape culture, sustained opportunities must be created for deliberation. There is a need to develop the capacities of people or groups that are usually left out of public discussion so that they are better positioned to share their perspectives in the deliberative process.

In short, teaching deliberative skills is a powerful way of educating students about their role as citizens. Deliberation involves classroom learning plus practical involvement (the marriage of academic knowledge and community engagement deployed in the zoBomi course, as well as in various other Service Learning initiatives across campus), which provides students with an alternative way of understanding what politics might be and with a

skills set that they can use in their own encounters with others in group problem solving.

An example of deliberative pedagogy is the Eastern Cape Communication Forum (ECCF) based at the School of Journalism and Media Studies. It is committed to facilitating an enriched and inclusive communication space in the Eastern Cape through working with local media, CSOs, citizens, government institutions, and institutions of higher learning. The underlying goal is to enhance democracy and sustainable development. Through the use of photography, conversations, deliberations, and debate it implements a photo-voice project and hosts a series of working dialogues to create points of engagement and debate around #RapeCulture at the University and more widely in the Eastern Cape.

The notion of 'deliberation' can be implemented in informal or non-academic contexts. For example, The Oppidan Press ran two pages with information about what consent is and with useful, accessible definitions of the complex terms that are used in the discourse about sexual violence. This information fostered discussion and deliberation amongst students, who had been given some tools with which to identify a collective problem and then jointly problem-solve.

*Recommendation:* The notion of 'deliberation' can be used to develop new courses or to enhance existing courses, and to shape teaching practices at the institution in order to engage collectively and constructively with the problem of sexual violence. It is suggested that a multi-disciplinary course in the theory and practice of deliberative democracy (possibly involving Political Science, the School of Journalism and Media Studies, Sociology, the Allan Gray Centre for Ethical Leadership and other interested departments and institutes) be developed at the University. Such a course will equip students to 'speak politics' through learning deliberation and will help spread this model of democracy across campus and in the wider community.

It may be advisable to limit the content of the course to issues of transformation and sexual violence in the first instance, given the urgency of these issues. Suitable training of staff (facilitators, lecturers, and tutors) will need to be undertaken.

### ‘Disruptive pedagogy’

‘Disruption’ as a negative word in everyday parlance should not be confused with the term ‘disruptive pedagogies’ which is a technical term used in educational thinking among academics. ‘Disruptive pedagogy’ is a part of the academic project, and an extremely valuable tool for transformation of the academic project. ‘Disruptive pedagogies’ often co-exist (but ideally should be engaging) with the ‘business as usual’ traditional education that sometimes treats knowledge as separate from issues of social justice and therefore socially neutral. ‘Disruptive pedagogy’ seeks to challenge the taken-for-granted approach to so-called neutral knowledge, in order for teachers and students to be made aware of how knowledge reflects the injustices of society i.e. class, race, patriarchy, gender, colonialism, religion, and language. Instead of safe spaces, disruptive pedagogy advocates creating zones of discomfort so that students and staff can critically reflect on their identities. ‘Disruptive pedagogy’ is associated with creating dissent, and accepts that this is painful, and may in the early stages cause conflict and despair, but ultimately moves on to bring hope, empathy and a new moral sensitivity. ‘Disruptive pedagogy’ may be summed up by the phrase ‘dialoguing differences’.

Teachers using ‘disruptive pedagogies’ create a space of discomfort on the basis of reconstructing knowledge and personal identity. This is done through a conversational process aimed at exploring the link between differing personal identities (race, class, gender etc.) and the more invisible and abstract systems (e.g. patriarchy) that shape these personal identities (see also the sections on deliberation and sustained dialogue). Internationally renowned scholars such as Yunnis Waghid (see

Waghid, 2014a, 2014b), Vivienne Bozalek and Brenda Leibowitz (see Bozalek, Carolissen, & Leibowitz, 2013), have conducted research on curricula based on ‘disruptive pedagogies’ and these innovations in Higher Education are now accredited knowledge.

At this institution, the concept of a ‘disruptive pedagogy’ has been taken up by various academics and by CHERTL. In 2012 a book entitled *Re-Imaging Academic Staff Development: Spaces for Disruption* was published. A key statement from the introduction sums up the main goal of the book:

The notion of disruption runs throughout the text. We do not use the term in the sense of throwing into confusion, disorder or turmoil but rather in the sense of adopting a stance of questioning, challenging and critiquing taken-for-granted ways of doing things in higher education. (Quinn, 2012).

One possible way to incorporate issues of sexual violence into the curriculum is to adopt an approach informed by the concept of a ‘disruptive pedagogy’. Teachers could begin by creating opportunities for students to give comments on whether issues of rape culture and sexual violence are included/excluded from the curricula. In general teachers should reflect on and critically engage with the power dynamics of the classroom as a first step towards meaningfully incorporating issues of sexual violence into their curricula.

*Recommendation:* Using the theoretical and conceptual tools of ‘disruptive pedagogies’ can be creative and effective pedagogical strategies to resist rape culture in the classroom context. CHERTL can provide support to lecturers wishing to utilise these methodologies in their courses.

## INVISIBLE CURRICULUM AND DISRUPTIVE PEDAGOGIES

The ‘hidden curriculum’ is the notion that some aspects of learning are outside of the traditional notion of curriculum – content, skills, etc. (Ellery,

2016). It is preferable to call this the ‘invisible curriculum’ because ‘hidden’ implies it can be made explicit and that is often not the case. In the context of this institution, an important part of the invisible curriculum is inter-personal relations: how people relate to one another in the work environment and what power dynamics exist between them. There are cultural differences between disciplines, for example Information Systems and Computer Science students, despite studying the business and science views of the same broad discipline, have different styles of personal interaction and it is seldom that one person does well at both subjects. Even computer science and engineering students may battle to fit in with each other (Machanick, 2007).

The invisible curriculum is widely ignored – it is simply something that happens. As is illustrated by the breakdown of communication between sectors of the community during and/or after recent protests, there is good reason to understand why such relationships exist. Going further, where there are ‘invisible’ aspects to curriculum that promote any aspect of gender-based violence, it is important to understand what those influences are. There is a growing literature on ‘hidden curriculum’ and gender-based violence – often discipline-specific – suggesting that there is still significant work to be done in the field (Cheng & Yang, 2015; Harris, Hemson, & Kaye, 2014; McCaughey & Cermele, 2015). A more thorough study of factors which promote sexual violence in the invisible curriculum could start to address the long-running concern about gender biases in certain disciplines. The wider significance of understanding the invisible curriculum is that rape culture in all its complexity will be better understood. It is through understanding less extreme forms of violence, for example discursive violence such as a disciplinary culture of “women don’t belong here”, that more heinous forms of sexual violence will be understood.

The entire University community should be made aware of the power dynamics that exist between various sectors of the community e.g. between

teachers and learners, between senior academic staff and junior academic staff, between academic staff and support staff, between senior management and students. Some of the dynamics make it difficult for students to ‘call out’ problematic statements, behaviours and teaching methods due to fear of being punished through for example, biased marking. Confronting these power dynamics is one step towards understanding rape culture. Shifting and disrupting these power dynamics is a key step towards meaningful conversations which are aimed at resisting rape culture.

*Recommendation:* The attitudes and power relations that constitute and create rape culture need to be understood through examining the institution’s invisible curriculum. Research on the institution’s invisible curriculum will help direct responses that change attitudes and power relations. Through processes informed by deliberation and sustained dialogue the invisible curriculum can be transformed to healthier, equitable relations between members of this community. Research into the invisible curriculum could include:

1. identifying factors that cause some constituents of the University to feel disempowered and lacking agency;
2. addressing the underlying causes of unhealthy power imbalances and disempowerment;
3. identifying factors that lead to power imbalances and devising strategies to rectify these imbalances;
4. incorporating the results of these studies in staff development and support;
5. including the results in the Curriculum Review.

### SUPPORT FOR STAFF

It is necessary to make available support material for academics in faculties that do not deal directly with issues of sexual violence, and for all academics

who require this kind of support. Reports from staff working in disciplines that do not explicitly deal with these issues convey that they feel the need to be made aware of and equipped with knowledge of the discourses that have informed the protests against rape culture. They express a desire to be better able to understand and respond appropriately to their students' pain and concerns. Whether academic, administrative, or support staff, whatever the discipline or employment level, existing employees of the University should have access to relevant training if they so desire. New employees should receive relevant training as part of their orientation.

To this end CHERTL has discussed how issues related to sexual violence can be incorporated into the staff development and support work that it does. CHERTL has resolved to find opportunities to initiate discussion on sexual violence in the various formal courses offered: CATALYST and the PGDip (HE). In the PGDip (HE) this can be done, in particular, in the Teaching and Learning and the Curriculum Development modules. Also, the Academic Orientation Programme (AOP) for new academics and the Curriculum Conversation series will be developed to include issues of sexual violence.

*Recommendation:* Existing staff should have the option of completing a course or workshop on the discourses of rape culture and sexual violence, or have access to relevant materials, so as to adequately equip them to address these issues in their classrooms or in other related contexts. These workshops can be set up by the proposed Sexual Harassment Office in conjunction with HR.

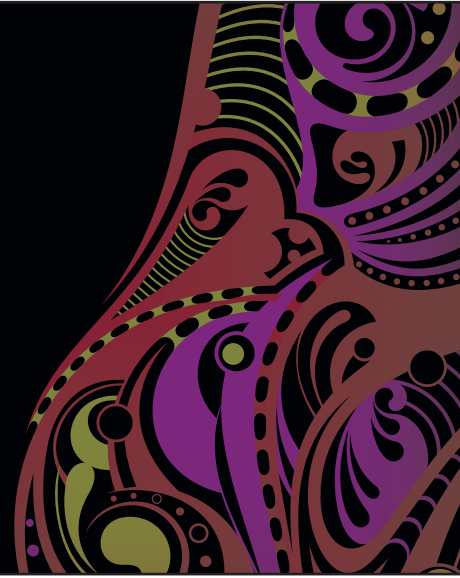
*Recommendation:* New staff will have the opportunity to be guided and supported on how to tackle issues of sexual violence in their curricula during the Academic Orientation Programme run by CHERTL. The Academic Orientation Programme should involve more students so as to give new staff an opportunity to learn about the context which they are entering.

*Recommendation:* A strong recommendation is made to put together a booklet with various case studies and ideas of how rape culture can be countered at curriculum level (drawing on the data gathered by Task Team 3 and from beyond). This task will be undertaken by a group of academic staff across disciplines and will be co-ordinated by CHERTL. The booklet will follow a similar format to that of the CHERTL series of booklets on various aspects of academic practice which is published on the Teaching and Learning page of the University website. The booklet will focus on stories of/by students who have experienced rape and gender violence. Perhaps something interesting could be done with text boxes which offer suggestions or point to additional resources for others who may experience something similar.



## PART 8

# TOWARDS A CLEAR INSTITUTIONAL ETHOS OF ENGAGEMENT WITH SOCIETY



### Introduction

**A fundamental shift must happen in the way the University approaches our society in order for it to have any impact on the systemic issues affecting students and work towards a better society as a whole. While in many situations, statements released by structures of the institution project the University as an agent of social change, it is important that the University takes a more pro-active and ‘lead-by-example’ role in changing our society.**

There is a tendency for universities to work from within an ivory tower. Situated in Grahamstown, the University sits geographically at the far end of an affluent section of town, overlooking the apartheid spatial planning implemented over the course of the twentieth century. As Prof Pedro Tabensky noted, it is a town so divided that it has two names Grahamstown and iRhini. In one sense, our University is one which is unintegrated into the town around it, in another sense it is the lifeblood of it. It is the largest employer and makes large contributions to the municipal fiscus. This makes the position of the University ambiguous. We must remove this ambiguity by better engaging with the society around us. The Community Engagement Division do laudable work, but this ethos of engagement with the broader society must be expanded into a general approach by every facet, division, department, faculty and institute of our University. In the following we address the possibility of a University statement.

Dr Sizwe Mabizela, Vice Chancellor of our University, has described the University as a microcosm of the broader South Africa. Certainly this is the case, but this does not recognize that our University is also a locus of power, not just playing out what is happening in South Africa, but actively a part of it. Generally, the University as an institution does not actively apply this power. Our University is not just a microcosm of South Africa, it is a part of the macrocosm of South Africa and it must leverage its influence as a University to implement change outside our campus walls while engaging with stakeholders in the community so as not to abuse the power imbalance. Holding this attitude in the engagement with society is vital.



To change the macrocosm changes the University. Certainly, some aspects of the University can (and should) be changed from within, but others cannot. A dismantling of the ivory tower is the only way to make the changes we require, as members of the University community, come to full fruition in our society.

This section of the Sexual Violence Task Team report is aimed at pragmatic, concrete interventions. In that respect, our recommendations on the way in which the University deals with the issues outlined above must equally ask the question of how the University can bring about this change and engage the broader society around it.

With regard to dealing with sexual violence, it is most important that the manner in which the University approaches the law changes. It goes without saying that the University acts legally in every step that it takes. The law, however, is not a fixed and concrete body of knowledge. The law adapts and changes alongside the society it represents. This is a truism. Just as slavery and apartheid were legal, so the law is not an indication of justice. And it is important that the University aims towards justice, not towards the letter of the law.

In the following we address the possibility of a University statement along the lines of the Corruption statement. Further, we speak to SRC led initiatives and the possibility of an Annual Convention. Finally, we talk about mechanisms to translate research being conducted at the University on gender and sexuality issues into policy spaces.

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## UNIVERSITY STATEMENT

Along the lines communicated by our VC of zero tolerance for sexual violence, it is the view of the task team that the University should make a firm statement that it will side with justice, in the same way it has signed an anti-corruption pledge. When engaging with matters of law and where injustice is observed in the law, it should be addressed through the academic means that the University has at its disposal. This means considering structural injustices when determining its policies and responses, and always prioritising the most vulnerable. Furthermore, it means acknowledging that the law is usually interpreted to maintain the status quo and that this continues to promote male dominance and deprive women and other vulnerable groups of justice. The law and interpretations of the law often reflects power relations and structures in our society and, as such, can contribute as much to reinforcing an unjust system as it can to building a just society. There needs to be significant change in the way we think and the way we interpret laws if the pervasive sexual violence in our institutions

is ever going to end. This means committing to an interpretation of the law, within the bounds of the constitution, that favours substantive equality, that acknowledges that the rights of the most vulnerable require more protection. It is important for the sake of the University community to avoid perpetuating injustices in our society. The University will need to make it clear how it understands justice for the most vulnerable in our society. Such an understanding will allow the University to better engage with the law. For two examples on the manner in which the law can be used to both bring about justice and perpetuate injustice, see Omar (2016) on responses to student protests, or De Vos (2016) on the manner in which the approach to the discourse of rights – invoked so often during and after the April protests from all sides of our University – can be used to shut down, rather than foster debate. In the case where justice cannot be achieved within the current legal framework, the University should make a commitment to using the resources at its disposal to challenge laws so that the University can actively contribute to making a more just society.

The law should be used as a tool by our University, and our University should make a clear commitment to a legal activist stance in all legal engagements.

Here the term institution is a reference to all formal structures of the University, including the SRC (which acts autonomously of other structures). University refers to the entire University community, and this understanding of the University should be reflected in all the actions of the University.

*Recommendation:* It is recommended that a 'commitment statement' is drafted by the University outlining the position of the University with regard to how it encounters the community, society, and the legal system governing our country. Specifically it should state:

1. the understanding of our University as a community, collectively owned, and guided by all its members;
2. the role, powers, and responsibilities of our University in creating a more just and equitable society;
3. a commitment to engage with our country's legal system as a tool towards seeking justice, both inside and outside our University, and never in a way which may give the impression of creating or reinforcing the injustices of our society;
4. a commitment to be proactive in challenging laws or policies which hamper our University's goal of seeking justice and a more just and equitable society.

The University's staff, including senior management, senior administrators, and directors, should be required to sign a declaration of their commitment to apply these tenets in all their actions during their time at the University and to inculcate every action they take in our University with these principles.

## STUDENT REPRESENTATIVE COUNCIL (SRC) LED INITIATIVES

The students of the University can take on a leading role in engaging not only on campus, but also with relevant organisations off campus. Two pertinent structures are the Victim Empowerment Programme (VEP) and the Community Policing Forum (CPF). The VEP aims to achieve restorative justice, an idea central to this report. Generally, a CPF is specific to one police station, but a sub-forum may be established specific to a significant section of the community. A CPF (sub-forum) focusing specifically on the University could target concerns of the University community including (but not limited to) sexual violence that are specific to the University. In combination with the VEP, a University-specific sub-forum could approach sexual violence holistically.

Apart from having members of the SRC represented on these bodies, it is also recommended that the SRC initiate a Student Safety Forum consisting of various members. This forum would be project-oriented, and each project should aim to be of a fixed duration and to have specific outcomes.

As a starting point, we propose a media campaign around enthusiastic/affirmative consent, targeting bars and clubs. The idea here is that this is the sort of campaign that these venues can support as it does not imply a negation of what they are trying to sell, which is essentially a form of entertainment. Another aspect of this campaign is that it changes the narrative from 'victim-blaming' or at best 'self-defence' to changing attitudes of potential perpetrators. Other possible projects include promoting a positive model of maleness, targeting the underlying attitudes that drive perpetrators such as powerlessness and attacking the logic of patriarchy in different settings.

Resources we could use in these projects include business contacts – the Grahamstown Hospitality Guild, for example, academics and students with media and publicity skills, and gender rights activists

who would advise on the tone of the campaign. We could also involve the University's Counselling Centre for advice on the kind of message that would have a positive impact without triggering survivors.

Each campaign would involve specific constituencies depending on specialist skills or perspectives needed; longer-term strategy would be driven by a permanent forum consisting of University and community constituencies with an overview of policy and progress towards achieving sustained change.

*Recommendation:* We recommend certain changes be made by the SRC to establish better representation of student issues and develop relationships between the student body and the wider Grahamstown community, including:

1. The establishment of two non-executive posts within the SRC structures to offer student representation on the Grahamstown Victim Empowerment Program (VEP) and Community Policing Forum (CPF) respectively. These two representatives should be required to attend all VEP and CPF and represent the concerns of students at these forums with a view to building relationships between the institution and the Grahamstown community. These representatives should report to the SRC, but should not have portfolios in the Council beyond their representation of student interests. In other words, these should not be political posts but should rather be focused only on representing and liaising between students and Grahamstown community structures.
2. That the SRC investigate ways to establish a Student Safety Forum that will work proactively on the societal causes of sexual violence and other issues around student safety. The forum would aim to address rape culture both in terms of changing attitudes on campus and in our wider society. The focus would be on promoting safety by changing attitudes that provide cover for sexual violence, abuse and harassment. We recognize that deep attitude change is not a

short-term project but that specific projects with a short-term duration are required to maintain momentum and to keep the issue alive. It is suggested that the forum be established by, and consist of, the following founding members:

- a. SRC Community Policing Forum representative
- b. SRC Victim Empowerment Programme representative
- c. Community Engagement office representative
- d. Gender Action Forum (GenAct) representative
- e. Grahamstown Business Forum (GBF) representative
- f. SRC Council Member for Community Engagement
- g. A representative of the Office of Equity and Institutional Culture

## ANNUAL CONVENTION ON SEXUAL- AND GENDER-BASED VIOLENCE

A proactive and pragmatic measure to effect change in our society with regard to gender-based and sexual violence could be the institution of an Annual Convention on Sexual and Gender-Based Violence. The objectives of the convention would be:

1. Bringing together different organisations working within SGBV in South Africa and discussing ways to tackle SGBV;
2. Capacitating local and small organisations that work in SGBV through workshops and sharing of ideas with bigger established organisations;
3. Fostering partnerships between South African SGBV organisations;
4. Bringing together activists, researchers, criminal justice actors, and policy makers and creating a common SGBV strategy.

*Recommendation:* It is recommended that the proposed Sexual Harassment Office together with the Equity and Institutional Culture Office, Community Engagement Office, GenAct, Gender Action Project, and SRC engage with other stakeholders in the country (e.g. the national Sexual and Reproductive Justice Coalition (SRJC); other Universities; HEAIDS) to discuss the possibility of setting up a national Annual Convention on Sexual and Gender Based Violence to be hosted in different parts of the country. This University could take the lead by hosting the first Convention.

## RESEARCH AND POLICY ENGAGEMENT

There are a number of researchers engaging in research on gender and sexuality related issues. Apart from the Chair in Critical Studies in Sexualities and Reproduction (CSSR), a number of researchers in diverse departments engage in relevant research that could be taken up in policy engagements. As indicated by former Vice-Chancellor of this University Dr Saleem Badat, however, the translation of research into policy is a particular process that requires particular skills. While the CSSR has had some success in inserting its research into policy forums, this has been with considerable effort.

*Recommendation:* The proposed Sexual Harassment Office should compile a list of researchers conducting relevant research. Workshops on writing policy briefs should be held with these researchers and opportunities for presenting these in policy spaces discussed. The possibility of forming part of the national Sexual and Reproductive Justice Coalition should be discussed. Support for these endeavours should come from the Research Office. The possibility of obtaining research funding to support the translation of research into policy should be considered.





# CONCLUSION

**Koss, Wilgus and Williamson (2014) insist that it is the duty of institutions to provide appropriate support services to all individuals who are involved in and impacted by sexual violence. They suggest that these services may take the form of:**

1. emotional support such as those offered through a campus counselling center or a unit dedicated to sexual violence support, advocacy, awareness, or prevention;
2. medical support to assess physical injury, disease, and pregnancy risks, and collect forensic evidence (if desired by the complainant);
3. physical support to appropriately separate the complainant from the individual who is reported to have engaged in the misconduct;
4. academic support from advisors, tutors, academic units, or instructors;
5. procedural support through student conduct professionals familiar with institutional policy and process;
6. spiritual support from campus religious organizations;
7. legal support, which at larger institutions is often available to students from a campus-based legal advisor;
8. financial support such as offering a tuition refund to a complainant who would like to withdraw from courses or from the institution (p. 249).

It is clear from this list that these authors are of the opinion that far-reaching and comprehensive support and changes are needed.

The Sexual Violence Task Team has put many hours into collecting the information for, and writing, this report. We have done so in the belief that nothing less than systemic change will suffice in the question of sexual harassment and violence. Given the high levels of gender-based violence in our communities, including the



University, we cannot simply ‘apply a plaster to the wound’. Rather, in-depth and committed action is required across the various sectors of the University. Our long list of recommendations reflects this.

This University has at this time a unique opportunity to make a difference, to take the lead in creating something new regarding gendered norms and sexual violence in the space of a Higher Education institution. While deep reflection and recommendations on the way forward, as illustrated in this report, is clearly necessary, the real test comes in how the recommendations are taken up and implemented. While particular people may be held more accountable than others in this ‘real test’, the fact of the matter is that implementation of recommendations as far reaching as the ones contained in this document must be taken on board by a range of people and in a range of spaces. We are all responsible.

Sub-task team 6’s mandate was to “develop a system of monitoring and evaluating the embedding of the recommendations within general policy and procedures of the University, and the implementation of accepted recommendations”. This work will start next year in conjunction with GenAct and the Equity and Institutional Culture Office. Appendix 9 contains a summary list of the recommendations with space for responsible people/units to be filled in. This applies to many people and units across the campus.

**The real work begins now!**

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# APPENDIX 1:

## TERMS OF REFERENCE FOR A TASK TEAM TO ADDRESS ISSUES OF SEXUAL VIOLENCE AT RHODES UNIVERSITY

### Background

At a meeting of students, deans, and management on the morning of 19 April 2016, it was agreed that a small committee would meet to put together proposed terms of reference for a task team to address issues and procedures regarding sexual violence at Rhodes University. A committee consisting of students (Naledi Mashishi, Lelona Mxesibe, Thabani Masuku), and staff (Dianna Hornby, Catriona Macleod, Brahmi Padayachi) met in the afternoon of 19 April to draft these proposed terms of reference. These proposals were presented at a meeting held at 16h00 in Eden Grove Red on 20 April with approximately 120 staff and students in attendance. At the end of the meeting, the small committee was tasked with incorporating the inputs from those present at the meeting, and presenting a further iteration of the proposed terms of reference to another meeting of all stakeholders and interested parties. A second draft of the proposed terms of reference was presented to staff and students on 22 April (approximately 140 people present) and again on 28 April (approximately 50 people present). A pre-final version of the terms of reference was circulated to all staff and students at Rhodes University for final comment. All comments received were integrated in this final document. On 4 May 2016 a broad invitation to all staff and students was sent to volunteer for the task team.

### Mandate of the task team

The task team is tasked with exploring ways in which a counter-culture to rape culture may be addressed at Rhodes University and more broadly. The following major issues, in order of priority listed below, will be considered and, where possible, concrete and actionable recommendations will be made. The task team will:

1. Make recommendations concerning the ways in which the experiences of survivors/victims of sexual violence can be heard in a safe, confidential, supportive space; recommend ways in which current spaces may be enhanced/improved upon and how relevant staff may be trained to provide these kinds of spaces.
2. Review all policies and procedures relating to sexual offences at Rhodes University, gathering input from all stakeholders and interested parties through open invitation. Engage in a reflective process in which the inadequacies of the present situation are highlighted and better ways of dealing with issues of sexual violence instituted. Ensure that the policies and procedures put the complainant first and create mechanisms whereby complainants are not required to be in the same space as the alleged perpetrator. Recommend ways in which staff (including Grades 1 to 5 staff members, supervisors) and student (including post-graduate students) knowledge of policies and procedures may be improved in an on-going and sustained manner (including creating readable and summary policies and fact sheets and ensuring the all of these are translated into isiXhosa).
3. Recommend ways in which issues related to sexual violence, rape culture, and hetero-patriarchal gendered norms can be embedded in the curriculum and other activities in the University (e.g. Orientation week, staff orientation, CHERTL's work with academic staff and supervisors, residences, work with trade unions) in a sustained manner, and in a way that emphasises the prevention sexual violence

and its locatedness within gendered power relations. Situate this endeavour within the on-going process of the de-colonisation of the curriculum and of teaching endeavours. Recommend ways that learning that occurs through activism and social agitation can be capitalised upon.

4. Conduct an audit of systemic issues (e.g. institutional culture; staff-student relations; relations between different grades of staff, residence rituals, drinking culture, oppidan issues, attitudes of management, academics, students, administrative and support staff, wardens/sub-wardens) that promote or undermine rape/sexual violence culture at Rhodes University. Recommend ways in which systemic issues that promote rape/sexual violence culture may be addressed in ways that recognise the differential impact of rape culture on specific people and the intersectionality of power relations. Recognise the strengths, where they do exist, and recommend ways in which these can be enhanced.
5. Investigate ways in which the University does, and may further, engage locally (with the immediate Grahamstown community and businesses, club etiquette, schools, community engagement) and nationally (e.g. policy, law, research, activism, schools, community engagement) regarding sexual violence.
6. Liaise with Academic Project and Protocol Facilitation committee that is working on the staff-student engagement protocol with specific emphasis on how academic staff may be involved in the agitational anti-rape movement led by students with the aim of solidarity and resistance against rape (and, where necessary, police intervention). Ensure that there are space created in which staff can listen to students.
7. Develop a system of monitoring and evaluating the embedding of the recommendations within general policy and procedures of the University, and the implementation of accepted recommendations.

### **Composition of the task team**

A steering task team, with a number of sub-task teams will implement this mandate. The steering task team will consist of the two facilitators of the sub-task teams: one staff member and one student from each sub-task team. Each sub-task team will choose the facilitators from amongst their members, and the steering task team will choose two co-ordinators (one staff and one student) from amongst the members.

A general call will went out for people to volunteer for particular task teams. The interim committee was tasked with ensuring that all stakeholders are reasonably represented on the task team and that there is a reasonable spread of men and women. External stakeholders, like the Young woman's forum of Grahamstown and the Department of Social Development will be asked to participate where appropriate.

**STEERING TASK TEAM: TWO MEMBERS FROM EACH OF THE SUB-TASK TEAMS – ONE STUDENT AND ONE STAFF MEMBER**

- » Safe spaces for survivors/victims task team
- » Policies and procedures task team
- » Curriculum and activities task team

- » Systemic issues task team
- » Local and national issues task team
- » Academic project and protocol task team
- » Monitoring and evaluation task team

## APPENDIX 2:

### MEMBERS OF THE SEXUAL VIOLENCE TASK TEAM

The SVTT has been co-ordinated by Prof Catriona Macleod of the Critical Studies in Sexualities and Reproduction, with administrative assistance from Kaitlin Yendall. The Steering Committee consisted of a student and a staff member from each of the six sub-task teams. Below is a list of the Steering Committee members as well as the sub-task team they form a part of.

Name	Sub-task team
Jordan King	Safe Spaces
Charmaine Avery	Safe Spaces
Manthipe Moila	Policies and Procedures
Susan Robertson	Policies and Procedures
Chelsea Haith	Curriculum and Activities
Sam Naidu	Curriculum and Activities
Jabulile Mavuso	Systemic Issues
Werner Bohmke	Systemic Issues
Craig Paterson	Local and National Issues
Philip Machanick	Local and National Issues
Zintle Mvana	Monitoring and Evaluation
Kirk Helliker	Monitoring and Evaluation

The Sexual Violence Task Team members were divided between the 6 sub-task teams as follows:

- 1. Safe Spaces:** Charmaine Avery; Dinah Arnott; Jordan King; Judith Reynolds; Kim Barker; Lindsay Kelland; Lungile Ngubane; Michelle May; Nokuzola Nzimande; Sarah Green; Thabani Masuku; Unathi Lugongolo; Yamini Kalyanaraman
- 2. Policies and Procedures:** Brahmi Padayachi; Daniel Motaung; Manthipe Moila; Sarah Green; Susan Robertson
- 3. Curriculum and Activities:** Alex Sutherland; Anthea Garman; Chelsea Haith; Jo-Ann Vorster; Judith Reynolds; Laura de Lange; Lynn Quinn; Michael Joseph; Philip Machanick; Rapula Diale; Rod Amner; Sam Naidu
- 4. Systemic Issues:** Esther Ramani; Jabulile Mavuso; Katlego Molokoe; Michael Joseph; Natalie Donaldson; Nicola Graham; Ward Jones; Werner Bohmke
- 5. Local and National Issues:** Beverley Wilson; Craig Paterson; Dion Nkomo; Helen Kruise; Luleka Mbenyana; Malvern Chiweshe; Noluxolo Nhlapo; Perishka Coopoo; Philip Machanick; Robyn McQueen
- 6. Monitoring and Evaluation:** Kirk Helliker; Michael Neocosmos; Sally Hunt; Zintle Mvana

## APPENDIX 3:

### FULL RESPONSES FROM PROF DUGARD AND PROF JUDGE

#### Prof Dugard

- 1. It has been suggested that the University should not prosecute rape as it is a serious criminal offense that should be reported to the police for criminal investigation. In cases where the complainant does not wish to press charges through the criminal justice system, should the institution allow for internal disciplinary procedures to be instituted at the complainant's request? What is the obligation of the University, under the Criminal Procedures Act in terms of reporting the case to SAPS?**

A university should concern itself only with internal processes. It cannot rely on victims reporting matters to the police or the CJS dealing with them. In my advice Rhodes should simply forget that there is a CJS and focus on the internal systems. At Wits, in line with advice from gender activists we do not encourage victims to go to the police (nor do we discourage them from doing so). If a victim wishes to go to the police we offer her support in doing so. But in the three years of operating a Gender Equity Office (GEO) not one victim has wanted to go to the police. In creating internal systems for dealing with rape and other Gender-Based Harm (GBH) you are doing it as much for Rhodes as for any complainant. In terms of obligations to report to the police – only if the victim is a minor. Otherwise there is no obligation. We do not 'charge' perpetrators as though we are the police / state. Rather we have an inquisitorial system without a prosecutor and the harm is misconduct i.e. we don't pretend to be charging for the crime of rape.

- 2. If the complainant wishes to remain anonymous and does not wish to lay a charge, can the university nevertheless pursue the case if there is evidence of possible future harm to the university community? Does such a case require a complainant? If not, how would the University proceed?**

It's probable that it would never be possible to lodge a formal complaint anonymously. Even if all that is warranted/wanted is an informal discussion with the perp bringing his attention to how unacceptable his behavior is, he is likely to know who the complainant is, unless he's a serial offender. Regarding disciplinary hearings, my own view is that it's not possible to have an anonymous complaint. Boni Meyersfeld points out that in International Tribunals they have sometimes allowed this, but I think it would not fly especially in our labour law context. For us, if the misconduct warrants a disciplinary process (and especially if there have been previous complaints even if merely 'informal' [a good reason to ensure one office keeps a detailed database of all complaints] but if the complainant is not willing to move to a disciplinary process, that is usually the end of the story unless there are witnesses who we can use to present the facts. In three years we've only had one case like this but fortunately had a witness who could attest to the guy beating his girlfriend and, in the end, the complainant decided she did want to be part of the process.

- 3. Is the university a legal person?**

Yes, and IT rather than the complainant is actually the party laying the complaint against the student or staff member.



**4. In terms of mediation, if an agreement is reached between the parties and a person breaks this agreement can the university, rather than one of the participants, then prosecute?**

We don't use the word prosecute for any process related to GBH for the reasons outlined above. Yes the university can move against a perpetrator without a complainant where there is other evidence including past transgressions/ broken agreements etc.

**5. An argument has been made that the University does not have the capacity to investigate and prosecute rape. Is it possible to charge in the alternative that does not require such a burden of proof, and that results in the maximum penalty – exclusion for students and dismissal for staff? If so, what would that offense be? Alternatively, if students and staff sign contracts that indicate that they will abide by an agreement of a sexual violence free campus, could they be charged with serious breach of contract?**

Of course the University shouldn't be prosecuting rape. It is taking forward complaints of misconduct and the offence is misconduct in terms of the rules of conduct (also the Constitution and relevant legislation). Proof is on a civil rather than criminal standard – on a balance of probabilities / preponderance of evidence rather than beyond reasonable doubt. There is no need – but feel free to pursue as the more reminders of gender-related misconduct the better – to have a contract re sexual violence. Sexual harassment, sexism and sexual violence is not allowed in the workplace and there is plenty of legislation around that. And I'm sure your code of conduct with students would cover GBH, even if not explicitly? If not, perhaps revise?

**6. Can students who are excluded by the University for rape challenge this as it is a schedule 5/6 offence? (Argument of being excluded on unfair grounds).**

Do you mean a schedule 5/6 offence in the Criminal Justice Act? If so, no. If you mean in terms of University rules, it's only unfair if the process is unfair, as with any hearing.

**7. What are the legal obligations of witnesses to sexual violence? Can a case be made on the basis of witness accounts, or must there be a complainant?**

See above

**8. How do you implement a no contact order if the victim/survivor wishes to remain anonymous and the university wishes to protect the alleged perpetrators identity?**

Not possible – but we haven't actually had people wanting to remain anonymous. Rather people either do or do not wish to move to a disciplinary hearing. Usually the cases in which they don't want to go to a disciplinary are those cases we anyway think are better resolved informally. For those cases that go to disciplinary, the main issue is to have an office that supports them all the way and is clearly there FOR THEM (GEO doesn't pretend to be neutral – we are there for complainants; this is essential if a university is going to get people to come forward and, after all, the main 'winners' in any disciplinary process are not the complainants but the university, so it is critical to do everything you can to support complainants). GEO exists as a single office attached to the VCO that has a full-time counsellor along with a full-time investigator (and a director – me – and an administrator); so complainants need only go to one office. This, too, is key. Apart from receiving, compiling, analyzing and resolving complaints (whether informally or through disciplinary processes), we are engaged in proactive interventions, advocacy, campaigns, and

policy development and formulation.

- 9. Is it possible for a victim/survivor to have their case go on record if they wish to remain anonymous? Does the law allow for this? Is the naming crucial for the case to have any weight? (within the university setting).**

See above

- 10. If a number of complaints have been lodged anonymously by the university community about a particular person can this information be used in court at a later stage if need be (for example if someone wishes to prosecute rape). Does this type of information carry any weight if the complaints have been anonymous?**

This is tricky – I would say that this is definitely evidence that should be brought to a hearing and the chair will have to decide what weight to afford it. Hopefully the investigator can present such evidence explaining why sometimes there are anonymous complaints and how if there begin to be several of these against the same person it points to a pattern, which is always relevant...

- 11. Do any of internal and external procedures interfere with each other? If a complainant goes through an internal process and it goes to criminal prosecution, for instance, can evidence from internal retributive justice be used against you? [We understand that any information provided in a restorative justice or mediation procedure cannot be used]**

No – it's crucial for the university to focus only on the internal. Forget about external. Not only because hardly anyone ever reports to the police but because it simply doesn't matter what the CJS does. Of course if there happens to be a report, charge and prosecution, that makes your job a slam dunk in terms of expelling/dismissing, but in the three years of GEO we've never had this happen. Not least as you don't want to hold up your process for the very lengthy CJS.

- 12. In terms of the disciplinary procedures internally, does a crime need to be proved or can the case proceed on the basis of harm to others? If the point of disciplinary procedures is to regulate our interactions as a University community, is the notion of a 'crime' necessary?**

See above

- 13. If the University were to investigate serious sexual violence offences what specific framework resources would be required? How would the disciplinary committee then need to be constituted in order to effectively prosecute/investigate/respond to serious acts of violence?**

Investigate as you would any matter. And deal with by recommending a serious punishment such as expulsion/dismissal.

.....

**Prof Judge**

This is an impressively comprehensive and progressive report with a set of bold and wide-ranging recommendations. That said, I really don't have a huge amount to contribute, rather a few somewhat disparate points that may or may not be useful:

- » On the issue of assessing the existence or not of a power differential between the complainant and the accused I guess the process of making that determination is also subject to the exercise of power. Here it might make sense to explicitly elicit the view of the complainant in the assessment of whether such a power differential exists. This would assist in surfacing oft-hidden dimensions of power inequalities (for example those that aren't immediately evident and that might relate to dynamics of race, sexuality, affiliation, familial associations, past links). This would also allow the sexual harassment office to build a broader understanding of the varied relationships of power in which sexual violations occur.
- » The report recommends that mediation be reserved for cases of sexual harassment that do not involve physical contact, and where there is not a power differential between the two parties. However this position might overlook the impact of 'milder' forms of harassment in creating the conditions that enable the normalisation of more 'severe' forms. I therefore wonder if it is necessary to institute this limitation at the outset, given that it might foreclose possible routes of action, by complaints, against more commonplace forms of harassment. This is of course my own political position because I think that the lack of attention and frequent minimisation of the impact of non-physical harassment contributes to the maintenance of institutional environments in which gender power is exercised in more severe forms.
- » There is a strong emphasis on extending support to complainants based on their reporting of incidents. Yet there is also a need to put in place proactive measures to actively invite complaints so that the onus is equally on the university to solicit reports and create a culture that both enables and reinforces reporting. Here I suspect support advocacy officers/peers would play a key role. Where I think the multiple-pronged possibilities for complainants to pursue could be spelt out more clearly is in terms of:
  - a.** Steps in place to aid a person to make a decision around the various courses of action
  - b.** Steps to be taken to ensure that complainants aren't diverted away from or towards particular courses of action. There is always a risk when presenting options for recourse to complainants, that the institutional culture [which those involved in the implementation of policy are not ever entirely outside of] favours one action over another. It'll be important, in how the policy is written, to work against tendencies to dissuade or value certain courses of actions over others
  - c.** The remit of the university to take action when an alleged crime (as defined in the Sexual Offences Act) has been committed and when the complainant doesn't wish to pursue the case
- » On the point about the sequencing of the disciplinary hearing in relation to the laying of a charge within the criminal justice system, I concur that it's not preferable to have one contingent upon the other. In particular, "the argument that it saves the survivor/victim from having to go through two processes simultaneously" is problematic for many reasons, including that chances are high the accused might not even be present on the campus by the time the former process is resolved. Also, this precludes the university itself from taking action should it be deemed severe enough as an issue in a way that doesn't only leave the onus on the complainant. The institution has both the power and the prerogative to pursue

some cases on its own volition, for example in the case of multiple complaints being laid, possibly later withdrawn, and related to the same accused or set of circumstances (e.g. a spate of cases in a residency, for example). This links to how the institution uses its own disciplinary procedures to actively create and maintain an educational context, which, in as far as possible, disables sexual violations.

- » In addition to the critiques of the existing definitions of sexual harassment the report details and the identified need to consolidate these definitions and align them with the law, I would also add that definitions such as the following, work against understanding of harassment as acts of power. *“Sexual harassment occurs when the act is committed without intent to harm another and where, by failing to correctly assess the circumstances, a person believes unreasonably that consent was given without having met his/her responsibility to gain consent”* (p.17). This plays into common legitimisations of harassment through discourses of ignorance (I didn’t know she was offended) and link to the burden of proof (for consent) being shifted to the complainant.
- » I note the reference to “creating a culture of consent” (p.19). It’s unclear what this means. Also, how might it relate to sexual rights paradigms in which the refusal of consent is, in itself, the expression of sexual autonomy? I think its intended meaning and implications should be carefully unpacked. This related not only to how consent might be withdrawn, which is explicitly recommended, but also how it cannot be assumed to exist in the first instance (which is kind of what the idea of a “culture of consent” presumes, namely that sexual availability already presents itself as something that is either to be consented to or not). This embeds the presumption of a priori sexual availability/possibility. Of course affirmative consent goes some way to addressing this.
- » Concerning the role of the law faculty in the constitution of members of the Disciplinary Board for Sexual Offences, which includes a member of academic staff in the Faculty of Law: This gives the law faculty, which one could broadly argue is implicated in shaping dominant conceptions of ‘right law’ on campuses, a central role in disciplinary processes which raises its own set of challenges as recent student protests have revealed. You might consider external legal support for this, in a way that doesn’t draw the law faculty in quite so centrally. Also, what are the implications of the privileging of members of this department in metering out justice in the case of complaints that emanate from within the law faculty itself? This will also have to be addressed in the policy should the proposal stand.
- » In terms of the framing of the restorative justice approach, I wonder if it doesn’t make sense to standardise the language when referring to the parties to cases. It stuck me when reading that when the report gets to the restorative justice option, there is reference to a “respondent” rather than an “accused”. I think careful consideration should be given to the naming of parties, consistently, as these terms have implications for how the various processes are perceived. For example, ‘a respondent’ implicitly suggests a role quite different to that of an accused. Developing a preferred nomenclature to support the policy and its underpinning values, might be a valuable tool that can also help shape a change in public discourse on sexual violence on campus, as well as how it is both spoken about and acted upon by university leadership. This might include explaining the use of terms ‘survivors’ and ‘victim’, respectively, amongst others. Developing such a nomenclature could be a creative process linked to addressing institutional (rape) cultures and the hidden (sexualizing and gendering) curriculum more broadly. It would shape the narrative that reflects the culture of the policy and procedures themselves. I would also strongly suggest using terms like “alleged perpetrator” or accused, rather than respondent [even though that might break with restorative justice conventions].

- » The idea of ‘support advocates’ and ‘bystander training’ are novice ways to popularise the culture and politics of the policy and approach once finalised. The bystander training makes me think of quite an impressive initiative in India, Bell Bajao (Ring the Bell) which Sonke did a watered down version of some years back. What’s useful about the campaign is that it targets men specifically, with an emphasis on them taking direct action to interrupt abusive situations. One can fault the campaign for not going far enough in what it conceives as ‘interruption’, but it is a useful example of the potential of bystander interventions. Highly visible campus initiatives that demonstrate such interruptions (staged and involving members of the university) would be a powerful way to un-normalise sexual violence.
- » Engagements with curriculum should ideally mention the ‘hidden curriculum’ in particular, given its production of negative (or positive) norms that hierarchise gender/race/sexuality and underpin (or have the potential to undermine) cultures of violence.
- » It’s unclear how the “criminal justice system only” option links to the university’s own prerogative to pursue a course of action in the case of criminal behavior. I know this is dealt with elsewhere, but the delinking of the two, suggests that the option necessarily precludes the university, in its own right, pursuing a case (for example that involves unlawful conduct as defined by the Sexual Offences Act).
- » On the matter of whether the university disciplinary system should prosecute rape, I am of the opinion that it should. Given our abysmal conviction rates, issues of secondary victimisation, and the slow pace of rape cases proceeding within the court system, it seems untenable that internal disciplinary processes be put on hold and the university’s own responsibility to act be put in abeyance. Of course it wouldn’t be pursued as ‘a criminal case’ so it would follow a different course of investigation but certainly, in so far as the alleged action breaches university policy, it must be acted upon. Because it would remain a civil investigation, the university would not be held to the same criminal investigative processes required in the CJS (as legal opinion on p29 notes). So I strongly agree with the report’s recommendation in this regard and with Jackie Dugard’s position in regard to the internal process being focused on a civil enquiry that relates to gross misconduct (amongst other breaches to university policy that a rape would constitute). [Note this is not a legal opinion so kindly don’t approach it as such. Dee Smythe is far better positioned to provide that!]. This raises an overall issue – which I think is both tactical and political – and that has to do with the extent to which you want to centre the CJS option in how the (final) integrated policy will frame the handling of offences. In the report, and in how I read the recommendations, the internal-external link is very pronounced, even contingent in some instances (although it’s clear decisions still have to be made about whether certain cases first have to proceed through the CJS in order for internal processes to be pursued). Here I’m not entirely convinced by Jackie’s argument that one should “simply forget that there is a CJS” and just focus on the internal. There’s some balance to be struck here. I guess I’m less cynical about the role universities can play, and the resources (broadly) they can harness, in supporting complainants to approach the CJS.
- » “Fairness Forum” strikes me as a potentially problematic term and structure. In name it suggests the existence of an objective and level context in which complaints are lodged and assessed in the first instance. The report points out that the precise function of such a forum should be better defined, and, based on that, it could then be appropriately titled. If it is constituted in order to establish whether there is prima facie case to proceed with a course of disciplinary action, it should be subsumed into a pre-enquiry/determination phase and titled as such, rather than introducing the notion of “fairness” before “findings” - if you know what I mean. Simply put, the finding of such a preliminary process might not be

based on fairness at all, rather on a lack of sufficient evidence, the choices/position of the complainant etc.

- » On the 'guidance discussion', which might be more appropriately named 'remedial discussion' or 'warning discussion': Perhaps the decision as to whether to pursue such a discussion should not be the prerogative of the Sexual Harassment officer alone, as recommended. In addition to the listed considerations in making such a decision (on p31), I would add emphasis to the message dimension of the intervention which is critical to asserting the university's own level of intolerance of sexual offences even, importantly, when the complainant might chose not to pursue a case herself. It might be useful to provide a rationale in the policy for why this intervention is important, above and beyond the individual perpetrator and the incident/instance to which the accusation applies. This is particular important in terms of the wider perception of the effect of the Sexual Harassment Officer's 'guidance'.



## APPENDIX 4

### **RESPONSE TO QUESTION OF CRIMINAL JUSTICE AND INTERNAL DISCIPLINARY PROCEDURES OCCURRING SIMULTANEOUSLY: PROF GILTON KLERCK**

1. The notion that disciplinary proceedings are distinct from criminal proceedings finds resonance in various aspects of our legal and administrative systems. For example, the gazetted discipline regulations, which apply to the South African public service, contain provisions that disciplinary proceedings will be instituted and finalised notwithstanding the fact that the act of misconduct is also a criminal offence.
2. In most cases, the disciplinary hearing precedes the criminal proceedings. In terms of our Constitution, everyone has the right to remain silent and to be presumed innocent until proven guilty. All the evidence gathered against an employee, including the employee's own testimony at the disciplinary hearing, may however be used against such an employee during the criminal proceedings.
3. Organisations, which have raised 'the right to silence' as a justification for postponing disciplinary proceedings until the criminal proceedings (arising from the same facts) are completed, have generally not succeeded (John Grogan, in *Workplace Law*, cites the case law that applies to the employment relationship).
4. Must an organisation therefore postpone the disciplinary hearing pending the finding of the criminal court in order to protect the right to silence? The courts' answer to this question is 'no' for various reasons, which include the following. (a) The accused have a choice at the disciplinary hearing whether to testify or not. In the event that he is expelled because he did not testify, it is a consequence of him exercising that choice. The labour courts have consistently found that employees are not compelled to testify during their disciplinary hearings. (b) The disciplinary hearing and the criminal proceedings constitute two independent processes and therefore different considerations apply. A criminal court seeks to protect society against wrongdoers, but an organisation seeks to protect its own interests. The only acceptable sanction to an organisation is expulsion while a court may consider a suspended sentence sufficient. (c) In the event that an organisation is forced to postpone disciplinary hearings, it would also be obliged to allow the accused to remain in the organisation. This cannot be acceptable.
5. The expulsion of a student without conducting a disciplinary hearing would raise serious concerns of procedural fairness. The only option therefore is to (a) delay disciplinary proceedings until the conclusion of the criminal trial or (b) to proceed with the disciplinary hearing and allow the accused to decide whether to participate. In the sphere of employment, South African courts have generally favoured the latter option. To prove gross misconduct in a disciplinary hearing, one must show that on a balance of probabilities it is more likely than not that an accused materially breached the disciplinary code. A disciplinary hearing is a relatively informal process; there is no legal representation and thus few technical, legal steps.
6. The standard of proof is different. A criminal conviction for rape (for instance) requires proof beyond a reasonable doubt that the accused forced a person to have sex with him without her consent. The criminal process is rigorous and, understandably, involves evidence from witnesses and legal representation on both sides. Proof "beyond a reasonable doubt" is a high standard and favours false

negatives over false positives; it derives from a belief that it is better to let some guilty people go free than convict innocent ones. In sum, it is a far more onerous standard of proof than that applied in an internal disciplinary hearing. A University only has to demonstrate that the student committed the offence on a balance of probabilities. Moreover, the aim of the enquiry is quite different. Criminal proceedings are punitive in nature, while an organisation seeks to protect its interests and has a duty towards progressive discipline (see: *Oickers v Monviso Knitwear (Pty) Ltd*).

7. To avoid a situation where a student, who was convicted (with a suspended sentence) in a criminal case, is allowed to remain in the institution because he was found not guilty in a disciplinary case, the following rule should apply: the outcome of a disciplinary hearing involving an accused having already been convicted of the same crime in a criminal court must be that the person is guilty of a suspendable offence. That is, if there is proof of rape beyond a reasonable doubt, it is more probable than not that the rape occurred. Similar concerns have been raised with regard to schoolteachers (see Stein, 2013).
8. Allow me to quote at length from *Van Eyk v Minister of Correctional Services & Others*:

*“The respondent’s argument conflates the internal investigation and the police investigation. It is, I believe, well recognized that an internal departmental investigation is entirely different and separate from a police investigation. To confuse the two is against principle.*

*It results in a failure to appreciate that a criminal investigation and hearing has a different emphasis and a different purpose from an internal or domestic investigation and hearing. The one has to do with proof of criminal offences, and with guilt, punishment and the legal policies which underscore them. The other is a civil matter with a civil standard of proof, and its chief concern is with damage to the relationship between employer and employee and whether or not that relationship can be maintained. It is generally accepted therefore that a departmental disciplinary hearing may be held even though criminal proceedings are pending. This distinction is expressly accepted and entrenched by the Department [of Correctional Services] in its policy guidelines document which says: (a) ‘If a person committed a criminal offence, a decision must be taken whether a disciplinary enquiry should be instituted according to the facts of each particular case. An employer may proceed with and complete a disciplinary hearing despite the fact that the employer has been charged criminally with an offence arising from the same incident. (b) The fact that an employer laid a criminal charge against an employee does not prevent him from conducting a disciplinary enquiry, nor is an employer obliged to re-instate an employee who is acquitted on a criminal charge. (c) The conviction on a criminal charge may be used in a disciplinary hearing as evidence, but it is not desirable to wait for the outcome of criminal trials due to possible long time delays.*

*In the light of this distinction, the respondents cannot simply ignore their time constraints, which require promptness as an element of fair labour practice, by delegating their investigation to the police and thereby indefinitely extending their own investigation. This is especially so where they are prompted to do so by no more than a hope that something might emerge from the parallel but independent investigation being conducted by the police. If this were permissible, provisions containing time limitations like those in resolution 1 of 2001 could be circumvented in every case where charges are laid with the police.”*

## APPENDIX 5:

### SEXUAL HARASSMENT POLICIES OF SOUTH AFRICAN UNIVERSITIES

Through the process of reconceptualising how Rhodes University deals with sexual harassment it was felt that exploring the sexual harassment policies of other South African universities would be useful. The following questions were posed to various South African universities via email.

1. Does (the University) include rape in its definition of sexual harassment?
2. Does (the University's) sexual harassment policy insist that rape be reported to the South African Police OR is this decision entirely up to the complainant?
3. Does (the University) have an internal system which deals with rape? (ie. if a student or staff member have committed rape can the University exclude or dismiss them?)
4. If a complainant wishes to remain anonymous and not seek justice internally, can (the University) still choose to take action if they are seen as harmful to others?

The above questions were posed to South African Universities during the #FeesMustFall Protests. Due to the protests a number of universities were unable to comment. The following Universities were able to respond:

Name of University	Does the University include rape in its definition of sexual harassment?	The University's Sexual Harassment Policy states that Rape MUST be reported to SAPS	Is rape dealt with internally?	The University can still take action in cases where the complainant does not wish to report (and wishes to remain anonymous)
<b>Stellenbosch University</b>	<b>YES</b> (Page 6)	<b>YES</b> (Page 26)	<b>YES</b>	<b>YES</b> (Page 30)
<b>University of Cape Town</b>	<b>YES</b> (Page 2-3)	<b>NO</b> (Page 10)	<b>YES</b>	<b>YES</b> (Page 10)
<b>University of Johannesburg</b>	<b>YES</b> (Page 8)	<b>NO</b> (Page 9)	<b>YES</b>	<b>YES</b> (Page 14)
<b>University of the Western Cape</b>	<b>YES</b> (Page 6-7)	<b>NO</b> (Page 10)	<b>YES</b>	<b>YES</b> (Page 8)
<b>Witwatersrand University</b>	<b>YES</b> (Page 6)	<b>NO</b> (Page 15)	<b>YES</b>	<b>YES</b> (Page 10)

The information in the above table was either extracted from the universities' sexual harassment policy itself, or the answers were provided by particular individuals from within the University.

The list of policies referred to in the table above:

- » Stellenbosch University, Policy on Unfair Discrimination and Harassment, September 2016
- » University of Cape Town, Sexual harassment Policy, January 2008
- » University of Johannesburg, harassment Policy, June 2015
- » University of the Western Cape, Policy on Sexual harassment, January 2014
- » University of Witwatersrand, Sexual Harassment, Sexual Assault and Rape Policy and Procedures, December 2013

# APPENDIX 6:

## QUALITY OF RESIDENCE LIFE SURVEYS

Below, we list the items of the Quality of Residence Life Surveys and then discuss the results for the items that would contribute in some way to an understanding of some students' experiences of marginalisation and an understanding of residence spaces as sites where power relations may operate in ways that enable sexual violence and rape culture. The surveys generally followed the above format, with some variation. For the years 2011 and 2013, Overall Satisfaction was included as an item. For the years 2010 and 2011, Post Graduate Questions were included. For the year 2011, an item on a proposed Chill Centre was also included in the survey. Data presented in each table below are taken from the survey reports.

- 1) Demographic Variables
- 2) Item: Academic Matters
- 3) Item: Residence Life
- 4) Item: Residence Governance
- 5) Item: Discipline
- 6) Item: Support on Campus
- 7) Item: Safety & Security
- 8) Item: Administrative and Operational Efficiency
- 9) Item: Social Issues
- 10) Item: Sexism
- 11) Item: Racism and Xenophobia
- 12) Item: Homophobia
- 13) Item: Religious Intolerance
- 14) Item: Disability
- 15) Item: House Warden
- 16) Item: Hall Warden
- 17) Summary: All Items
- 18) Postgraduate Questions

Table 1: Residence Life Item results

Items	Results	2010	2011	2012	2013
<b>Enriched personal development</b>	Disagree <sup>1</sup>	7% (N=2694) <sup>2</sup>	6.1% (N=2825)	6.9% (N=2879)	7% (N=2796)
	Neutral	21%	22.4%	24.1%	24%
	Agree	72%	71.5%	69%	69%
<b>Witnessed Violence</b>	Disagree	78.2% (N=2666)	79.1% (N=2767)		
	Neutral	12.7%	12.4%		
	Agree	9.1%	8.5%		
<b>Very positive/helpful Orientation Experience</b>	Disagree			18.1% (N=2582)	19.4% (N=2512)
	Neutral			27.8%	26.4%
	Agree			54.1%	54.2%
<b>Respect Individuality/Difference</b>	Disagree	7.2% (N=2681)	5.5% (N=2828)	5.7% (N=2837)	7.2% (N=2742)
	Neutral	18.6%	18.8%	22.3%	20.5%
	Agree	74.2%	75.7%	72%	72.3%

<sup>1</sup> 'Strongly disagree' and 'disagree' have been collapsed into one category for the convenience. The same applies with 'strongly agree' and 'agree'.

<sup>2</sup> The number of students who answered the particular item, not the total number of students to who completed the survey. This number fluctuates from item to item within surveys.

Table 1 above speaks to the item that required students to reflect on their residence experience in general terms. For each of the years 2010, 2011, 2012 and 2013, the majority (72%, 71.5%, 69% and 69% respectively) of students who completed this item agreed that their experience in residence had enriched their personal development. While this statement is quite broad, we have highlighted this item as it may be argued that students who experienced sexual violence (including harassment) and/or discrimination of any kind (see tables 4 and 5) whilst living in residence would be unlikely to agree with this statement. However, those perpetrating sexual violence and/or discrimination would not necessarily disagree with this statement. That is, there may have been students who agreed with the statement and who themselves had sexually violated and/or discriminated against others in their or another residence. Furthermore, although most residences on campus are single sex residences, it is important to note that sexual violence is not exclusively perpetrated by men against women. In other words, single sex residences may themselves be sites of power relations where sexual violence may be perpetrated. In addition, the residence system does allow for inter-visiting, which, depending on the residence, is regulated to varying degrees.

For the years 2010 and 2011, 9.1% and 8.5% of the students who had completed the item on their general residence experience (2666 and 2767 respectively) agreed that they had witnessed a violent incident. For this item, students were asked to give details of their responses if they selected the 'agree' or 'strongly agree' responses. The reports do not include these responses. While it might be argued that the figures of those who have witnessed violence is low, it can also be argued that these figures still suggest that for some students, the residence space is one where students may encounter violence. Furthermore, these figures represent only those who completed the survey and felt comfortable reporting that they had witnessed an act of violence. It does not account for those who had violence perpetrated against them.



Regarding students' Orientation Week experiences, 18.1% (of 2582) and 19.4% (of 2512) of students who completed this item in 2012 and 2013 respectively disagreed that their Orientation Week experience had been very positive and helpful. When answering this item, students may have been responding to either of the two qualifying terms 'positive' and 'helpful'. In other words, students may have been disagreeing that Orientation Week had been positive, or they may have been disagreeing that it had been useful while some students may have been responding to both descriptive terms. Students may also have been responding to whether their experience was very positive or helpful. In other words, students who disagreed with this statement might have agreed to the statement had 'very' been removed from the statement. Owing to how broad the statement is, it is also unclear what aspect(s) of Orientation Week students would have been responding about. This is interesting, given that this item was included in the survey in 2012, the same year that a student sent a letter to Dr Vivian de Klerk about how she felt that her experience of serenades had been negative. The survey did, however, ask students to provide details, which are not available. Despite the vagueness of the statement, it is noteworthy that a significant number of students were not satisfied with their Orientation Week experience.

The 'Residence Life' item also attempted to ascertain whether or not there was a residence culture of respecting individuality and difference. A failure to recognise all people as individuals with not only their own thoughts, desires and goals (that is, as autonomous beings) but also as individuals with rights (right to dignity of person, freedom from discrimination, for example) may not only be bound up in but may also perpetuate sexual violence and rape culture. Thus, this item might be useful in giving an idea of how students view each other. However, it is not clear whether students who completed this item would have interpreted individuality in the terms discussed here (autonomy and rights). That being said, the majority of students who responded to this item agreed with the statement that in their residence individuality and difference are respected: 74.2% of 2681 students in 2010, 75.7% of 2828 students in 2011, 72% of 2837 students in 2012 and 72.3% of 2742 students in 2013.

*Table 2: Safety and Security Item Results*

Items	Results	2010	2011	2012	2013
<b>Feel safe walking around campus at night</b>	Disagree	13.3% (N=2731)	12.7% (N=2862)	12% (N=2889)	11.9% (N=2813)
	Neutral	19.2%	18.2%	20.5%	20.3%
	Agree	67.5%	68%	67.5%	67.7%
<b>Safety precautions in res sufficient</b>	Disagree	6.2% (N=2693)	5.5% (N=2813)	6.1% (N=2872)	5.6% (N=2789)
	Neutral	18.9%	21.9%	22.1%	22.4%
	Agree	74.9%	72.6%	71.8%	72%
<b>Enough guards for effective security</b>	Disagree	19.8% (N=2702)	19.5% (N=2835)	6.1% (N=2872)	
	Neutral	23.6%	24.3%	22.1%	
	Agree	56.5	56.2%	71.8%	

Table 2 above captures the results for the item on Safety and Security, what is arguably an important aspect to consider when assessing as to whether resident spaces contribute to the perpetuation of sexual and physical violence and discrimination. For the years 2010, 2011, 2012 and 2013, 67.5% of 2731 respondents, 68% of 2862 respondents, 67.5% of 2889 respondents and 67.7% of 2813 respondents agreed that they felt

safe walking around campus at night. The remainder either disagreed with the statement or felt 'neutral' about the item. 74.% of 2693 respondents, 72.6% of 2813 respondents, 71.8% of 2872 respondents and 72% 2789 respondents in 2010, 2011, 2012 and 2013 respectively agreed that they believed the safety precautions in their residence were sufficient. Lastly, for the years 2010, 2011, and 2012, 19.8% of 2702 respondents, 19,5% of 2835 respondents and 6.1% of 2872 respondents respectively, disagreed that there were enough guards on campus for effective security. From the results, a significant number of students living in residence who completed this item do not feel safe or as safe as they could feel in residence but particularly around campus at night. Given the nature of rape culture and the patterns which sexual violence take, it is likely that female students would feel more unsafe than male students in residence would, as they would fear not only the kinds of violence represented by muggings etc, but sexual violence as well. Interestingly, the 2013 survey results are also separated by gender. Table 3 below presents the results for the Safety and Security item by gender for 2013.

*Table 3: Safety and Security Item Results by Gender*

Item	Results	Female Students	Male Students
<b>Feel safe walking around campus at night</b>	Disagree	16% (N=1772)	4% (N=1038)
	Neutral	25%	13%
	Agree	59%	83%
<b>Safety precautions in Res sufficient</b>	Disagree	6% (N=1772)	5% (N=1038)
	Neutral	24%	19%
	Agree	70%	76%

When compared to male students, significantly more female students disagreed that they felt safe walking around campus at night: 16% of 1772 respondents versus 4% of 1038 students respectively. Furthermore, 59% of female respondents agreed that they felt safe compared to 83% of males, a marked difference. While there are more female students than male students at the University, which we would expect to be reflected in residences as well, that female students feel less safe than male students is noteworthy and may point towards the constant threat of sexual violence (including harassment) to women that is created by rape culture and male-dominated gender relations in which women's bodies are objectified and seen as sites of discipline and control by men. Compared to safety around campus at night, the differences between female and male students' responses to residence safety precautions are less marked: 6% and 5% of female and male students respectively felt that safety precautions in their residence were not sufficient compared with 70% and 76% of female and male students who felt that the safety precautions were in fact sufficient. Rather than suggesting that sexual violence may not be occurring in residence spaces, or that it mostly occurs outside of the residence space, these results may indicate that the rape myth that sexual violence is more often than not perpetrated by strangers is strongly held, leading female students to be more fearful outside of their residence than inside it.

Table 4 below asked students to reflect on social issues and how they might influence the quality of life they experience in residence. As such, some of the statements were linked to the drinking culture at this University (which will be addressed in the following section), as well as a statement on violence. Of those who completed the item, 2701 in 2010 and 2823 in 2011, 42.3% and 46.1% agreed that alcohol-free events were as fun as events with alcohol; less than half of those who responded to the item. It could be argued that

this points to a drinking culture at the University. It could also reflect students' opinion on the kind of alcohol-free events that are organised within residences, which, even when not compared to alcohol events, may not actually be the kind of events that students in residence would like to participate in.

Regarding drug and alcohol use, a minority of students, across the four years, agreed that there was a drug or alcohol problem in their residence. In 2010, 2011, 2012 and 2013, 6.8% of 2644 students, 9.6% of 2724 students, 8.1% of 2849 students and 8.3% of 2743 students respectively, agreed that there was a drug problem in their residence. The figures are higher for alcohol use: 17.2% of 2682 respondents, 19.7% of 2790 respondents, 14.6% of 2869 respondents and 16.2% of 2776 respondents in 2010, 2011, 2012 and 2013 respectively agreed that there was an alcohol problem in their residence. These results should not be dismissed as they, at the very least, indicate that some students may feel uncomfortable with the level of drug and alcohol use in their residence. Where this drug and alcohol use is coerced (perceived or not), it is a violation of students' autonomy. Furthermore, as we will discuss later, where alcohol use accompanies problematic informal gender socialisation practices, such use may be of great concern as it may lead to the perpetration of sexual violence.

*Table 4: Social Issues Item Results*

Items	Results	2010	2011	2012	2013
<b>Alcohol-free events as fun as alcohol events</b>	Disagree	28.4% (N=2701)	26.2% (N=2823)		
	Neutral	29.2%	27.8%		
	Agree	42.3%	46.1%		
<b>Drug problem in Res</b>	Disagree	76.4% (N=2644)	71.6% (N=2724)	73.3% (N=2849)	74.2% (N=2743)
	Neutral	16.8%	18.9%	18.1%	17.4%
	Agree	6.8%	9.6%	8.1%	8.3%
<b>Alcohol problem in res</b>	Disagree	57.6% (N=2682)	54.7% (N=2790)	57.9% (N=2869)	57.1% (N=2776)
	Neutral	25.2%	26.3%	27.5%	26.7%
	Agree	17.2%	19.7%	14.6%	16.2%
<b>Witnessed Violence</b>	Disagree			88.2% (N=2811)	88.7% (N=2742)
	Neutral			8.6%	7.9%
	Agree			3.2%	3.4%

Table 5 below is a compilation of the results for the Sexism, Racism and Xenophobia, and Homophobia items from the Quality of Residence Life surveys. In each case, respondents were asked whether they were subjected to hate speech or discrimination in relation to each of the above and whether they had witnessed an incident related to the above in their residence. For the results pertaining to xenophobia and homophobia particularly, the results must be considered in light of the number of students who identified themselves as foreign nationals or non-cisgendered (the survey lists lesbian, gay, bisexual and 'other').

In the 2010, 2011, 2012 and 2013 surveys, 2.1% of 2455 respondents, 1.7% of 2544 respondents, 1.3% of 2728 respondents and 1.6% of 2618 respondents agreed that they had been subjected to hate speech or discrimination due to their sex or gender. Similarly low percentages of students who had completed the item had witnessed a sexist incident: 4.1% of 2479 students in 2010, 2.7% of 2562 students in 2011, 2.1% of

2708 students in 2012, and 2% of 2618 students in 2013. These results cannot be taken to indicate that there is very little sexism that occurs within residence spaces for two reasons. Firstly, sexism has been very narrowly defined within the survey, being reduced to hate speech and discrimination which may be variously interpreted by the students. For example, students may not have interpreted sexism, as defined in the survey, to include everyday discourses uttered by both men and women about men's and women's roles etc. Secondly, the survey asks specifically about students' experiences within their residence and most residences are designated male- or female-only residences. Thus, the survey may not account for any sexism, even narrowly defined, that occurs at inter-residence events and gatherings or one-on-one interactions during visitation hours.

*Table 5: Sexism, Racism, Xenophobia and Homophobia Item Results*

Items	Results	2010	2011	2012	2013
<b>Subjected to hate Speech/discrim because of gender/sex</b>	Disagree	92.8% (N=2455)	93.7% (N=2544)	93.2% (N=2728)	93.6% (N=2644)
	Neutral	5.1%	4.5%	5.5%	4.8%
	Agree	2.1%	1.7%	1.3%	1.6%
<b>Witnessed sexist Incident</b>	Disagree	89.5% (N=2479)	91.3% (N=2562)	92.7% (N=2708)	92.5% (N=2618)
	Neutral	6.5%	6%	5.2%	5.5%
	Agree	4.1%	2.7%	2.1%	2%
<b>Subjected to hate speech/discrim. because of race</b>	Disagree	86.3% (N=2466)	87.7% (N=2551)	88.9% (N=2732)	89.2% (N=2646)
	Neutral	8.3%	7.6%	7.7%	7%
	Agree	5.5%	4.6%	3.5%	3.8%
<b>Subjected to hate speech/discrim because of nationality/culture</b>	Disagree	88% (N=2456)	88.6% (N=2543)	89.3% (N=2733)	89.3% (N=2646)
	Neutral	7%	7.2%	7.5%	7.1%
	Agree	5%	4.1%	3.3%	3.6%
<b>Witnessed racist Incident</b>	Disagree	83.6% (N=2480)	86.5% (N=2569)	88% (N=2710)	88.3% (N=2622)
	Neutral	8.8%	7.8%	7.8%	7.9%
	Agree	7.6%	5.7%	4.2%	3.8%
<b>Witnessed xenophobic Incident</b>	Disagree	89.6% (N=2470)	90% (N=2565)	91.9% (N=2705)	91.5% (N=2620)
	Neutral	7%	6.5%	6.1%	6.2%
	Agree	3.4%	3.5%	2%	2.3%
<b>Subjected to hate speech discrim because of Sexual orientation</b>	Disagree	91.3% (N=2451)	92.3% (N=2534)	92.6% (N=2727)	93% (N=2639)
	Neutral	6.1%	5.6%	5.9%	4.8%
	Agree	2.6%	2.1%	1.6%	2.2%

Items	Results	2010	2011	2012	2013
<b>Witnessed homophobic Incident</b>	Disagree	86.1% (N=2476)	86.8% (N=2571)	90.7% (N=2705)	90.1% (N=2621)
	Neutral	7.8%	7.5%	6.7%	6.6%
	Agree	6.1%	5.7%	2.6%	3.2%

We now discuss the results for racism, xenophobia and homophobia. Regarding racism, 5.5% of 2466 respondents in 2010, 4.6% of 2551 respondents in 2011, 3.5% of 2732 respondents in 2012 and 3.8% of 2646 respondents in 2013 agreed that they had been subjected to hate speech or discrimination due to their racial identity. For 2010, 2011, 2012 and 2013 respectively, 5% of 2456 students, 4.1% of 2543 students, 3.3% of 2733 students and 3.6% of 2646 students agreed to having experienced hate speech or discrimination in relation to their identity as a foreign national. As foreign nationals constitute a minority at the University, these figures are misleading as the percentages of foreign nationals who have experienced xenophobia, compared to foreign national students who have not (as opposed to South African students, which is what these figures suggest), would be much higher. In each case, similar percentages of students had witnessed racist or xenophobic incidences in each of the four years.

Concerning homophobia, 2.6% of 2451 respondents, 2.1% of 2534 respondents, 1.6% of 2727 respondents and 2.2% of 2639 respondents in 2010, 2011, 2012 and 2013 respectively, agreed that they had been subjected to hate speech or discrimination in relation to their sexual orientation. Similarly, there may be a minority of students who may be vulnerable to homophobia, thus these figures should be read carefully and may in fact suggest that a significant percentage of those who identify as LGBTIA experience homophobia. Slightly higher percentages of respondents had reported witnessing a homophobic incident than those who reported being subjected to homophobia. For example, in 2010, 6% of 2476 respondents had witnessed a homophobic incident compared to the 2.6% of 2451 respondents who agreed that they had experienced hate speech or discrimination in relation to their sexual orientation.

Table 6 below represents the results for religious intolerance and disability. Figures for the percentage of respondents who agreed that they had been subjected to hate speech or discrimination on the basis of religious intolerance, and of respondents who had witnessed such an incident, are similar to those discussed above. For the year 2012 for example, 2.7% of 2704 respondents agreed that they had been subjected to hate speech or discrimination, the lowest figure for the four-year period. 2010 had the highest percentage of respondents who had experienced discrimination or hate speech related to religious intolerance: 4.2% of 2542 respondents. In terms of witnessing an incident involving religious intolerance, 4.6% of 2463, 4.5% of 2556, 2.7% of 2690 and 2.4% of 2604 respondents in 2010, 2011, 2012 and 2013 respectively, agreed with the statement. Figures are even lower for the percentage of students who completed the item and agreed that they had experienced hate speech or discrimination in relation to their disability. For example, the highest and lowest figures were 2% of 2610 students in 2013 and 1.4% of 2515 students in 2011. Once again, there may be a minority of students who have a disability and thus figures are expected to be much higher. Also, the question does not allow students to include being discriminated against in terms of access to spaces within residence and the University generally (for example, ramps etc.). Thus, the results should not be taken to reflect the extent of discrimination, based on disability, at the University. There is no data for the percentage of students who had witnessed such an incident.

Table 6: Religious Intolerance and Disability Item Results

Items	Results	2010	2011	2012	2013
<b>Subjected to hate speech/discrim. because of religion</b>	Disagree	88.7% (N=2452)	89.1% (N=2546)	89.2% (N=2704)	88.8% (N=2628)
	Neutral	7.1%	7.1%	8.2%	7.2%
	Agree	4.2%	3.8%	2.7%	3.8%
<b>Witnessed incident involving religious intolerance</b>	Disagree	88% (2463)	87.9% (N=2556)	90.2% (N=2690)	90.8% (N=2604)
	Neutral	7.4%	7.6%	7%	6.8%
	Agree	4.6%	4.5%	2.7%	2.4%
<b>Subjected to hate speech/discrim. because of disability</b>	Disagree	92.9% (N=2422)	93.8% (N=2515)	92.7% (N=2690)	92.6% (2610)
	Neutral	5.5%	4.7%	5.6%	5.3%
	Agree	1.6%	1.4%	1.5%	2%

Items which address sexism, homophobia, racism, xenophobia, religious intolerance and ableism are important. On the surface, such items might point towards a vulnerability of particular groups of people to unfair treatment. Such items are also important, however, because constructions of certain groups of people may make these groups particularly vulnerable to violence in general, and sexual violence in particular. Thus, for example, in South Africa and elsewhere, lesbian and gay people are subjected to sexual violence often ostensibly in relation to their sexuality/sexual orientation, that is, in relation to a perceived 'deviation' from the (heterosexual) 'norm'. In the same way, women are more vulnerable than heterosexual men are to sexual violence in a global cultural system that devalues women or values women only in relation to men. Individuals who are seen as 'lesser' citizens in any community (used in its widest possible meaning) face this vulnerability. Given this, it is encouraging (but in no way acceptable) that small percentages of students indicated that their residence is a space in which they are treated as 'non-citizens' of their residence space. However, such figures cannot and do not speak for all students in residence nor do they speak for all students in residence who have faced hate speech or discrimination or have witnessed such incidents: all they represent are the students who completed the particular survey items and felt comfortable and able being honest about their experiences. That some students did experience their residence as a hostile space is deeply troubling and needs to be addressed in a sustained and systemic way.

Table 7: House and Hall Warden Item Results

Items	Results	2010	2011	2012	2013
<b>Comfortable discussing personal issues with house warden</b>	Disagree	21.3% (N=2708)	16.6% (N=2838)	16.6% (N=2870)	15.1% (N=2782)
	Neutral	27.1%	30.7%	29.4%	29.2%
	Agree	51.5%	53.6%	55%	55.7%



Items	Results	2010	2011	2012	2013
<b>House warden available if needed</b>	Disagree	6.4% (N=2701)	6.3% (N=2820)	4.7% (N=2884)	4.2% (N=2796)
	Neutral	19.1%	20.1%	21%	19.4%
	Agree	74.6%	73.6%	74.4%	76.3%
<b>Hall warden is fair and unbiased</b>	Disagree	8% (N=2699)	7.7% (N=2830)	8.1% (N=2884)	4.2% (N=2796)
	Neutral	22.4%	23.6%	23.5%	19.4%
	Agree	69.6%	68.7%	68.3%	76.3%

The Quality of Residence Life Survey includes items assessing the approachability and accessibility of the House and Hall wardens, important items given that students who have experienced a sexual violation may indeed speak to their warden about their experience or seek advice/help from their warden. For the years 2010, 2011, 2012 and 2013 respectively, 51.5% of 2708, 53.6% of 2838, 55% of 2870 and 55.7% of 2782 students who completed the item agreed that they felt comfortable discussing personal issues with their House Warden. 76.3% of 2796 respondents in 2013, the highest figure for the four-year period, agreed that their House Warden was available if needed. The remainder were largely neutral over the statement with a minority of students disagreeing with the statement: 19.4% and 4.2% of 2796 respondents respectively for the year 2013.

Regarding whether students believe their Hall Warden to be fair and unbiased, 68.3% of 2884 students in 2012 and 76.3% of 2796 students in 2013, the lowest and highest figures for the four-year period, agreed that their Hall Warden was fair and unbiased. The same statements were not generated for sub-wardens or House Committee members, who also may be a point of contact for students. While the results indicate that most students who completed the item during this four-year period felt that they could speak to their warden about a personal issue, it is of course unclear whether experiencing sexual violence would count as an issue students would feel comfortable approaching their wardens about. In order to encourage the reporting of sexual violence, victim-survivors need to be given as much choice as possible regarding whom to confide in. Therefore, effort needs to be made in making sure that wardens, as well as sub-wardens and house committee members, are approachable, and certainly accessible, regarding this particular issue that students may face during their time in residence. This speaks to the issue of appropriate training regarding sexual violence, a point already addressed earlier in the report. Furthermore, creating a culture in which sexual violence issues are respectfully and sensitively discussed by the people occupying these positions and on a routine basis, for example, would go a long way to ensuring that level of comfortability and faith needed by students in order for sexual violence to be effectively dealt with. This too has been addressed in the recommendation for an Anti-Sexual Violence Representative to serve on residence House Committees.

Overall, the Quality of Residence Life Survey was a unique opportunity to provide some insight into the residence space as a potential site of violence. It is unfortunate, therefore, that the surveys were discontinued and that there are only results available for 2010-2013, making the results not particularly relevant for the present time. The strengths of the survey, although notable, are often undercut by shortcomings of the survey. For example, as discussed earlier, the statements are generally constructed in vague or ambiguous terms which make it impossible to state definitely what the results are an indication of. Because the survey may not have been constructed specifically to give an indication of sexual violence and rape culture in residences, the wording of the statements limits its usefulness in this regard. Certainly, sexual

violence and rape culture have a significant bearing on students' quality of residence life and therefore greater attention should have been paid to how such issues may be specifically, and sensitively, targeted in the surveys. Nevertheless, the results of the surveys present a point for departure in determining the systemic issues that promote or challenge rape culture at the University.

# APPENDIX 7:

## REPORT FROM THE DEAN OF THE COMMERCE FACULTY ON THE POSSIBILITIES OF CURRICULUM REFORM

### Faculty of Commerce

#### INCLUSION IN THE CURRICULUM OF ISSUES OF SEXUAL VIOLENCE

##### 1. Introduction

The student protests of April, 2016 focussed attention on rape culture. As a result of the protest action, various Task Teams were established inter alia on Curriculum, or more specifically, how issues of sexual violence could be included in the curriculum.

This document reports on matters pertinent to the inclusion of issues of sexual violence in the Commerce curriculum.

##### 2. High-level Structures

###### 2.1 Degree Structure

The Faculty offers three undergraduate degrees: BCom, BEco and BBS.

All degrees are accredited by the Council on Higher Education in terms of the number of degree credits. A three-year bachelor's degree comprises 360 credits, whilst the four-year bachelor's degree comprises 480 credits. Presently, Faculty's degree credits are as follows:

BCom (General): 405 credits

BCom (Law): 405 credits

BCom (Inter-Faculty): 405 credits

BCom (Accounting): 465 credits

BEco: 390 credits

BBS: 525 credits

In terms of credit value, all degrees carry more than the minimum number of degree credits, as highlighted in the first paragraph. Note that all degrees must contain a minimum number of credits; a maximum is not specified. That said, care should be taken not to exceed minimum levels unnecessarily or without good reason.

###### 2.1.1 BCom

A number of variants of the three-year BCom degree are offered:

- » General
- » Accounting

- » Law
- » Inter-Faculty

Key features of the above degree variants include:

- No choice in course selection in the BCom (Accounting) degree; it is a package deal.
- The BCom (Accounting) degree includes a course on Ethics provided by the Department of Philosophy.
- A reasonably wide choice of courses in the other degrees including the free course or “take a course (1 x 30-credit course or 2 x 15-credit courses) of your desire from any faculty” at the second year. Students are actively encouraged to take a course quite different from those in their curriculum and preferably outside of the Faculty of Commerce, for example, Psychology, Sociology, Politics, any of the Languages, History, Classics, Understanding China and *liNtetho zoBomi*.

### 2.1.2 BEco

A number of variants of the three-year BEco degree are offered:

- » Business Science
- » Social Science
- » Environmental Science
- » Mineral Economics

Key features of the above degree variants include:

- No choice in course selection in the BEco (Mineral Economics) degree; it is a package deal.
- A small element of choice in the BEco (Environmental Science) degree, where if Computer Science 112 is taken any 1x15 credit course can be taken.
- A reasonably wide choice of courses in the BEco (Business Science) and BEco (Social Science) degrees including the free course or “take a course (1 x 30-credit course or 2 x 15-credit courses) of your desire from any faculty” at the second year. Students are actively encouraged to take a course quite different from those in their curriculum and preferably outside of the Faculty of Commerce, for example, Psychology, Sociology, Politics, any of the Languages, History, Classics, Understanding China and *liNtetho zoBomi*.

### 2.1.3 BBS

A number of variants of the four-year BBS degree are offered:

- » Economics
- » Information Systems
- » Management

- » Quantitative Management
- » Computer Science

Key features of the above degree variants include:

- Very little choice exists in courses; they are mostly package deals and certainly with no option of “take any course of your desire”.

## **2.2 Course Structure**

Individual courses are structured by departments and reflect departmental and staff views on what should be included in the curriculum (sometimes driven by staff areas of interest and competence), as well as national imperatives and contexts. Some departments also take cognisance of curricula recommended by professional bodies, for example, the Department of Information Systems considers curricula recommendations of the Association for Computing Machinery (ACM) and the Association for Information Systems (AIS) and the Department of Management considers the Standards as per the South African Board for People Practice (SABPP). Some departments, like Information Systems, seek industry counsel from their Advisory Board as they craft their curricula. Some courses, for example, Introduction to Taxation and Taxation 1, are driven by relevant law and case law; Management 211 and 311 (Human Resource Management) are driven in part by Labour Legislation.

Many of the courses offered by Faculty support the award of the BCom (Accounting) degree which is accredited by the South African institute of Chartered Accountants (SAICA). These courses must comply with SAICA’s Competency Framework in terms of the knowledge and skills students must acquire for later registration as a chartered accountant. Whilst content per se of courses is not prescribed, the competencies are, which, like it or not, link to a reasonably restrictive curriculum.

Curricula also need to take cognisance of the requirements for registration with the Chartered Institute of Management Accountants (CIMA), Chartered Financial Analyst (CFA) Institute and the Information Systems Audit and Control Association (ISACA).

The courses associated with the BCom (Law) degree are also somewhat prescriptive in so far as graduates need to be admitted to the side-bar and bar for which a set of skills and knowledge is required.

The courses associated with the BBS (Quantitative Management) also need to take cognisance of students’ use of the degree in support of a career in Actuarial Science and registration with the appropriate professional society.

## **3. Status Quo**

### **3.1 In Individual Courses**

Currently, issues of sexual violence feature in the curriculum of some of the modules in the Department of Management. Specifically, Human Resource Management modules (Management 211 and 311) include focus on workplace policies like sexual harassment.

As an aside, social issues (poverty), labour matters (exploitation of workers), economic systems variably held to be “good” or “bad” (capitalism, socialism), illegal practices (pyramid schemes, high-interest charging loan schemes), investments variably held to be “good” or “bad” (stocks, futures, stokvels, derivatives, interest

bearing investments), harmful environmental practices (unsustainable business/mining/fishing), ethics and corporate social responsibility certainly feature in curricula (Economics, Management, Accounting, Business School).

### 3.2 In Degrees

Currently, many degree curricula, as previously highlighted, include the so-called free course for which students are permitted to take any course (2 semesters) of their desire. The spirit of the course is for students to engage on a topic reasonably different to anything they are required or compelled to include in their curriculum. It gives students an opportunity to include other knowledges in their studies. It is possible that issues of sexual violence or any other social ill may be included in those curricula.

Over the years, students have taken any one or a combination of the following courses as their free course:

- » Psychology (two semesters)
- » Sociology (two semesters)
- » Politics (two semesters)
- » Philosophy (two semesters)
- » Computer Science 112 (one semester)
- » History 101 and 102 (one semester each)
- » Classics 101 and 102 (one semester each)
- » Music, Health and the Brain (one semester)
- » History and Appreciation of Music (two semesters)
- » *liNtetho zoBomi* 101 and 102 (one semester each)
- » Understanding China (one semester)
- » Any of the Languages (isiXhosa, French, English, Afrikaans, Chinese)

Appendix A contains an analysis of registrations for 2015 for the free course. Many students register for a one-semester course in Computer Science 112 (it is a pre-requisite for Information Systems 2 which a number of students take) and then another one- or two-semester course (Psychology 1 is popular). It is expected that a number of students will elect to register for *liNtetho zoBomi* 101 and 102 from 2016 onwards (it was only introduced in 2016).

As mentioned before, all students registered for the BCom (Accounting) degree are required to register for a course in Ethics which is offered by the Department of Philosophy.

### 4. Options for Inclusion

Faculty is of the view that no single person, course or department should take sole responsibility for inclusion of, for example, issues of sexual violence in their curriculum nor should any person, course or department consider themselves exempt. Rather, Faculty should strive to ensure that the total experience of



students over the course of their degree (time at the institution) is such that it includes attention to issues of sexual violence. That is, appropriate places need to be determined at which issues of sexual violence can be included in the total experience of students. Specific care should be taken to ensure that inclusion is not tokenist, contrived and/or superficial.

For inclusion at any particular point, consideration should be paid to the level/depth to which issues of sexual violence would be included. The level of expertise required to engage on the topic would then be consonant with the required level/depth and then associated levels of awareness, training, knowledge acquisition of staff.

Cognisance should also be taken of the impact of inclusion (additive or substitutive) of issues of sexual violence in the total experience of students so that degree workloads are maintained at regulatory/tolerable levels.

It would be valuable also to explore the possibility of broadening the topic/s for inclusion from issues of sexual violence to other topics of importance (social justice, HIV AIDS, sustainability).

It is also important to ensure that whatever opportunity is used to include issues of sexual violence in the total experience of students that as many students as possible, if not all, engage on the topic sometime in their degree.

Finally, the University has embarked on an institution-wide Curriculum Review. Any proposal emanating from the work of the Task Team would need to be considered by the larger Review. The specific details of any implementation will be worked within departments.

#### **4.1 For the Individual (Staff and Students)**

In their individual capacities, staff and students will have varying levels of awareness of issues of sexual violence. For staff, this is particularly of concern when they engage with students on the topic and as they navigate potentially traumatising sessions as past wounds are opened and laid bare.

*Possible Options:*

1. The draft report of the Sexual Violence Task Team proposes enrolment for online training for staff and students. Staff and students could be required to register for such an online course. For students, this would be completed outside of formal courses and irrespective of the degree for which they are registered.

#### **4.2 In Individual Courses**

Individual courses could be explored for inclusion of issues of sexual violence in the curriculum. The Department of Management already offers such courses. Other courses, for example, Taxation 1, would find such inclusion difficult.

*Possible Options:*

1. The Human Resource Management modules could focus more explicitly on policy, particularly policy relating to sexual harassment
2. Other modules in the Department of Management, possibly Management 1, could devote attention to

“current issues and challenges in the workplace”.

3. All students in Faculty complete a course in Professional Communications, except those registered for the BCom (Accounting) degree who complete a special Professional Communications for Accountants course. If an assignment (essay) is set for which the underlying topic can vary without negatively impacting the assignment, a topic on or related to issues of sexual violence could be used.

### 4.3 In Degrees

Many degree curricula include the so-called free course (two one-semester courses or one two-semester course). In terms of which courses may be taken, no particular course is privileged over another.

For students wishing to register for Information Systems 2 who require Computer Science 112 as a pre-requisite, the free course really comprises one one-semester course.

*Possible Options:*

1. Students could be permitted to continue to exercise free choice in selection of their free course, but strongly encouraged to register for a course that would provide opportunity for engagement on issues of sexual violence.
2. Students could be required to register for a course that would provide opportunity for engagement on issues of sexual violence. See section 4.4.

### 4.4 As a Common Course

Common courses serve as useful vehicles for including material in degrees that does not necessarily fit well in any extent course/module. Common courses are, however, subject to criticism: they tend to attract huge student numbers (the course is invariably compulsory); are taken begrudgingly by students who avoid/disregard as much of the course as possible (it is seen as unnecessary to their studies); can be resource-intensive; may not attract a committed teaching cohort (it is invariably seen as a standalone course not deeply rooted in any specific discipline the lecturers of which will not gain any great academic reward – papers, promotion – for devoting major effort); not necessarily rooted in any theory and susceptible to “topic of the moment” pressures.

A Common course in which a variety of matters (such as sexual violence, ethics, social justice, HIV AIDS, sustainability) could be included/considered could be developed.

Practically, the Common course would need to find a home in all degrees, either as an add-on course or in place of an extant course. Equally practical is the need to ensure that the course is resourced: lecturers, tutors and any other resource. It is also appropriate to consider the impact that such a course would have on other courses. If the Common course is added to degree programmes, it serves as a net cost increase. If the Common course is in place of an extant course, the impact of fewer students in those courses and their continued viability would need to be assessed. A Common course attracting 1500-1700 students would very likely lead to the discontinuation of some courses.

*Possible Options:*

1. A compulsory, University-wide common course could be introduced in which issues of sexual violence are included, together with other topics.

#### **4.5 As an Extra-Curricula Activity**

Not all University activity occurs within degrees, courses and the classroom or laboratory nor during the weekday hours of 7h45-17h00.

*Possible Options:*

1. An Extra-Curricula Activity: Students could be required to register for extra-curricula activities that are presented (lectures, videos, seminars, invited speakers) over lunch, in the evening, at the weekend or online that focused on issues of sexual violence and, possibly, other topics. Significant latitude could be accorded to presentation and assessment to include a diversity of mechanisms. The practical implementation of such activities would require attention.
2. A Re-Imagined Orientation Week and Beyond: Currently, the programme for Orientation Week contains a variety of activities. Further activities are conducted post-Orientation Week. It would require some re-engineering, but it is possible to re-imagine the programme for Orientation Week. This could be done both in terms of time (creative use of the week of Orientation Week, as well as set times during the first semester (lunch time, in the evenings and at weekends)) and content (current content and addition of issues of sexual violence). The practical implementation of such a proposal would require attention.

#### **5. Conclusion**

The matter of inclusion of issues of sexual violence and other/all social ills in the curriculum is important. Opportunities can be created for increased awareness and understanding, as well as for inclusion of issues of sexual violence in particular courses, degrees, as a common course and as an extra-curricula activity.

Such opportunities could be explored, but with careful consideration of implementation concerns related to degree workload, resource implications (staff, funds), impact on extant courses and the institutional Curriculum Review.

The Faculty looks forward to further discussions.

## Appendix A

The following table provides details of the course taken by students in their second year in 2015 as their free course.

<b>Analysis of Registrations for the Free Course (BCom and BEco 2nd year) 2015</b>	
<b>Course</b>	<b>Number of Students</b>
Afrikaans 1	1
Chinese 1	1
Classical Latin 101	1
Commercial Law 202	1
Computer Science 1L1	1
Drama 1	1
History 101	1
Information Systems 201	1
Sound Technology	1
Classics 102	2
Commercial Law 201	2
English 1	2
French 1P	2
Mathematical Statistics 201 and 202	2
Music, Health and the Brain	2
Philosophy 1	2
Introduction to Prof Accounting	3
Introduction to Taxation	3
Management 211, 212, 213, 214	3
Sociology 1	3
Politics 1	4
Classics 101	5
Maths 1C1	5
Fully-Foundational and Augmented Courses	12
Understanding China	33
Psychology 1	63
Computer Science 112	100

Note:

1. Students registered for the BCom (Accounting) curriculum are not included in this analysis – they do not register for a free course. They are, however, required to register for a course in Ethics as a compulsory component of their degree.

2. Students registered for the BCom – Extended Studies Programme are granted free-course credit for fully-foundational and augmented courses.
3. Students who intend registering for Information Systems 2 are required to complete Computer Science 112 as a pre-requisite. They are given free-course credit for Computer Science 112.
4. Due to a reduction in the number of one-semester courses, many students register for, for example, Computer Science 112 and Psychology 1 as their free course even though it entails completing one extra semester course than is necessary.
5. *liNtetho zoBomi* 101 and 102 was only introduced in 2016. In 2016, a total of 5 Commerce students are registered for *liNtetho zoBomi* 101 and 4 Commerce students registered for *liNtetho zoBomi* 102. It is expected that this number will grow as the course settles and is made more widely known.

## APPENDIX 8:

### REPORT FROM PROF MICHAEL NEOCOSMOS

**This report was submitted via email to the task team and has been reproduced faithfully in full here.**

First let me apologise for having missed appropriate meetings. I have been away for periods and as a result have missed some of the more recent meetings.

I have some comments to make on the report. I will try to make them as clear as possible because I feel they are of fundamental importance and I wish them placed on record even though they may be ignored or distorted (I am quite used to that).

Let me say to begin with that the report is very detailed and has managed to look at a wide array of problem and makes for the most part extremely useful recommendations. It is therefore broadly speaking a well thought out report.

However I think the report fails to address the elephant in the room namely the racist culture on campus apart from in a few words in passing. I do not think that this is appropriate and I will try to argue with greater precision why this is the case and what could be done about it as a minimum. Part of the reason for this underestimation of the impact of racism on sexual violence could be that the report is formulated broadly within a social psychological approach which focuses primarily on attitudes, prejudices, identities, culture etc and is concerned to address the issue of sexual violence through teaching and learning primarily (but not exclusively). Although such a perspective is important and indeed necessary, it is by no means sufficient. Much more is required in order to get to the root of the problem of sexual violence. In 2008, Prof Crain Soudien's report on racism in universities stated: "It is clear from this overall assessment of the state of transformation in higher education, that discrimination, in particular with regard to racism and sexism, is pervasive in our institutions." It is quite clear that things have not changed much since then otherwise student protests would not have occurred. Here I will not discuss sexism as this has by and large been dealt with in the report but I wish to concentrate on racism because as I said I feel that it has largely been ignored.

One cannot understand racism if one remains at the level of attitudes, prejudices and discriminatory practices. It is important to look for the source of these in power relations and to use Foucault's insight (as the authors of the report seem to like referring to him) power is not only manifested in 'capillary' forms but is always accompanied by resistance. This is unavoidable. Power relations govern the subjectivities of both those who oppress and those who resist. They therefore contribute to the formation of a culture (a matrix of subjectivities and practices) which can only be transformed by questioning its basis and therefore exceeding its limits. Very briefly this cannot be done exclusively by policy recommendations (as policies only provide conditions for changes in practices and are enacted by power anyway) and by teaching and learning 'identities' but requires the development of completely different subjectivities which must of necessity exceed thinking in terms of identities and which must necessarily encourage agency in terms of some idea of the universal: e.g. the public good, the community interest, the common good or whatever. Of course that idea of the 'common good' cannot be defined by a section of the community (e.g. those in power) but has to be defined by all in order to be acceptable to all. If we are to begin to think in terms of the common good, it means that all must be included and feel included in an idea of the common. In particular this applies to

blacks, women and foreigners but also to the disabled. In other words we must think and speak not only in terms of differences between us (identities) but also in terms of what we have in common: we are all human, we are all engaged in a collective enterprise of learning (teaching is a form of learning) and the creation of knowledge – not simply the reproduction of knowledges we have learn from the past, but the systematic creation of new ones. Such new knowledges arise precisely through rebellions as is shown by the existence of this task team and its proposals.

Of course as an institution, this University is founded on power differentials and this cannot be avoided, only minimized. What must be transformed is the culture of racism (as well as sexism of course) and this is what I understand the students to have been contesting especially in 2015. Racism is what produces racial distinction not the other way round, and racism is what enables unacceptable power differentials which are obviously connected to oppressive sexual relations and hence to violence.

Racism is intimately connected with colonial and neo-colonial power relations. Politics today in South Africa continue to be founded on such relations. Apartheid was a form of colonialism in that its power relations were such as to exclude the majority of the colonised from history, agency and the dominant (Western) culture (while simultaneously locking them within a transformed ‘traditional’ patriarchal system). Today the postapartheid form of colonialism is one which is based on inclusion, on assimilation into Western culture by a minority of the hitherto excluded population. The majority still remains excluded I’m afraid. In brief then there are two forms of colonial power and its relations of domination: that based on exclusion (e.g. apartheid) and that based on assimilation (e.g. that prevalent in the US). When we speak of inclusion, we need to be clear regarding inclusion into what. ‘Inclusivity’ can be as oppressive as exclusion and reaction to it regularly takes the form of essentialised identities. Inclusion/inclusivity can only refer to a new universal culture otherwise we simply remain within assimilationism. Very similar points could be made with regard to sexist domination of course and the inclusion of women into a masculine culture.

It is simply false to suggest that the University is a microcosm of SA society, it is at best a microcosm of middle class SA society. The half of the population living below the poverty line (which is totally excluded) is not represented at the University (it exists only within the townships where unemployment amounts to 70%) and it is broadly speaking middle class blacks who face assimilation into white society and culture. This is precisely what students were protesting against here. One major problem now is that black students are refusing to be assimilated, but the alternatives on offer to them at the moment include some re-invented millenarianism (we burn everything white and a new society will rise from the ashes) and various forms of essentialised nativism. It is ironic that such thinking should be on the ascendance again in South Africa especially in the Eastern Cape. Therapy sessions, workshops on identity and teaching and learning cannot solve this particular problem unfortunately. The alternative for some might be an extolling of the kind of authoritarian ‘tradition’ apparent in Zuma’s rape trial!

In what ways did colonial power relations impact of sexual violence? By fearing the supposed sexual power of black men (‘black men are all potential rapists’), by considering black unmarried women as available to white men, by ensuring that married black women must be placed under the control of husbands through legislation in order to ensure labour migration and by legislating against those aspects of traditional culture (especially those that gave women some power) thought to be ‘repugnant’ to western liberal mores. In other words black bodies were thought as exotic and black people were not seen as fully human and therefore legitimately subjected to paternalistic legislative interventions and despotic forms of rule (as defended by J.S Mill inter alia).



To refer to (implicitly black) racial or for that matter to gender **minorities** in South Africa (p.18) is not only evidently false; it is also indicative of the Eurocentrism which characterises this University's discourse. It is whites who are the racial minority in this country. Blacks are in the overwhelming majority and women are slightly in the majority ... unless one refers to political minorities but this is a different matter which is not addressed. This kind of formulation is simply illustrative of the western-focused academic discourse in this University which is precisely what students and others have been saying needs to be decolonised.

If middle class black youth are to be taught into the culture of whiteness (assimilation) then the implicit assumption is that they are not fully human because they are victims in various ways... This conception is a problem of whites and white culture and politics, not of blacks. It is whites here who are supposedly the custodians of what it means to be human. It is this conception which informs the idea of what the major referents of knowledge are, what is to be included in the syllabi, where students go for their postgraduate degrees, where external examiners come from, where textbooks are sourced, the modes of argumentation and behaviour in class and so on. This 'soft' form of racism is what has (rightly) been contested by students and it is this racism which undermines black women in particular. I am not sure if people realise what young black women have to face when they have to teach for the first time in an amphitheatre full to the brim of mainly white students. Blacks (and black young women in particular) are not seen by undergraduate white students as legitimate bearers of knowledge. Old white men like me are of course in a different category.

In sum then the University culture in this place as in others (we are not unique) works through a process of de-humanising the other and thus through a subtle process of de-universalising even though it maintains a universal discourse of human rights for example. Within the post-colonial conditions we live in human rights cannot provide a basis for re-inventing a truly human being. Human rights work only if all are equally considered as human; for them to advance a culture a true universalist culture, the 'playing fields have to be levelled' which was precisely what the state discourse affirmed in the early 1990s. Once a few of the previously excluded got absorbed into wealth, the need for cultural transformation was quickly forgotten. We are now dealing with the consequences.

If the University is serious about de-colonizing its culture it has to begin by recognising that there are other conceptions of the universal (other universals) available. Most of these emanate from the Global South but have been systematically effaced by the dominant liberal discourse. In the absence of such recognition we will remain forever within the parameters of a unique western conception of the universal which has found it impossible to overcome racism, sexism and other forms of discrimination because it has 'universalised' the thinking of identities rather than that of the universally human, a true universality. We therefore need to begin by acquainting ourselves with different conceptions of the universal. UHURU has attempted to do this in a small way and I am aware that there is a small project at UCT called 'Other Universals'.

In order to transform University culture into a true universal, it is therefore not sufficient (although it is necessary) to appoint more black bodies to higher positions (representation in University committees). It is also important to transform thinking by showing that black intellectuals and intellectuals from the Global South more generally (and especially women) are to be respected because they too are full of ideas concerning humanity. In fact they are the ones who are arguably some of the most intellectually inventive in the contemporary world. South African students should be encouraged to undertake their doctorates in Southern Universities for example. This kind of change is partly what we have attempted to encourage at UHURU with various degrees of success. In sum transformation and struggles against racism and sexism require both a change in numbers as well as a change in cultural experiences, showing that the excluded

are also capable of brilliant insights and progressive thought and that we can learn from other conceptions of universality. Teaching and learning are not sufficient vehicles for transformation in this context; they must be supplemented with greater cultural transformation. We must be careful not to debase theatre and drama for the purposes of didacticism (this is a possible danger) and should encourage the use of theatrical representations precisely to make us think of a different world, a different country and 'other universals'.

In sum, any process of transformation must be able to embrace protests by those who feel that the University is not living up to a true universalism; thought must be given to setting up a forum outside University structures where anyone can bring their grievances and concerns for public discussion within a context in which status and power are temporarily suspended; in addition to de-racializing formal committees and departmental curricula, a concerted effort should be made to supplement the ultimate references of knowledge from the West with reference to the South.

I would therefore make the following recommendations:

- 1.** There should be explicit recognition by the University of the right to protest. After all it should be evident that without student protests we wouldn't be having this conversation
- 2.** The provision of an open forum or 'agora' should be investigated. This forum should not be a committee which only representatives of recognised bodies can attend. Rather it should be open to anyone to attend so long as they accept a specific set of rules governing behaviour to be drawn up and put to a vote of all at the University. Everyone present would have equal rights. Adherence to the rules would be ensured by 'respected elders' (men and women) not necessarily management. This University-wide forum should have powers to make recommendations to Senate. It would not sit all the time but can be called by anyone or group wishing to discuss specific concerns of interest to all.
- 3.** In addition to de-colonising curricula, systematic effort should be made to create an intellectual environment characterised by an openness to various conceptions of universality. University-wide seminars should be conducted within which black intellectuals from Africa and the Global South form the majority of invited speakers

# APPENDIX 9:

## SUMMARY OF RECOMMENDATIONS

For more details on the following recommendations refer to the Executive Summary.

Recommendation	Person/Unit Responsible for Implementing Recommendation	
<b>Overarching Recommendations</b>		
1	The University should adopt a three-pronged justice approach for dealing with sexual harassment.	
2	An office dedicated to sexual harassment should be established.	
3	A Harassment Office should be established (within which the Sexual Harassment Office will be located).	
4	<ul style="list-style-type: none"> <li>a. There should be one comprehensive sexual harassment policy.</li> <li>b. Other policies which refer to sexual harassment/violence should also be revised.</li> <li>c. The policy on Eradicating Unfair Discrimination and Harassment should be revised.</li> <li>d. The responsibilities of the various role players and stakeholders should be clearly defined in each policy.</li> </ul>	
5	The overarching policy (and the revision of other policies) should be written by the Manager of the Sexual Harassment Office.	
6	Summary, easy to read, documents of the policies should be made easily accessible to all.	
7	A network of support for the complainants should be created.	
8	Reporting officers in the Sexual Harassment Office should be trained to take proper statements under oath and follow correct procedures in terms of obtaining medical examinations, even if the complainant does not wish to proceed with the case.	
9	<p>The various options open to complainants who lay a complaint within the University should be as follows:</p> <ul style="list-style-type: none"> <li>a. Support for complainant to lay a charge through the CJS</li> <li>b. Internal disciplinary procedures</li> <li>c. Restorative justice procedure</li> <li>d. Mediation between the parties</li> <li>e. Remedial discussions</li> </ul>	

	<b>Recommendation</b>	<b>Person/Unit Responsible for Implementing Recommendation</b>
10	<p>a. GenAct should oversee the implementation of all of the task team mandates through the Sexual Harassment Office.</p> <p>b. Regular reports should serve at GenAct and the Equity and Institutional Culture Committee.</p>	
<b>Criminal Justice System</b>		
11	Mechanisms of support for the administration of external retributive justice need to be established.	
<b>Formal Internal Disciplinary Procedures</b>		
12	The contradictions between the various policies for internal disciplinary procedures need to be ironed out.	
13	The inaccuracies within the various policies need to be attended to in the writing of the Sexual Offences Policy.	
14	The definitions of rape, sexual assault, and sexual harassment should be revisited.	
15	Future policies and guidelines should acknowledge that offenders may be in positions of authority.	
16	<p>a. There should be a prescribed sanction of exclusion and dismissal for rape and sexual assault.</p> <p>b. The Sexual Offences Policy and all disciplinary codes should include definitions of all types of sexual offences that are subject to discipline.</p>	
17	The section of the Student Disciplinary Code which refers to students who are acquitted due to lack of mental capacity needs revision.	
18	<p>a. The Senate Disciplinary Committee member should have a background in gender-based violence and sensitivity to psychological issues.</p> <p>b. At least two of the members of the Disciplinary Board for Sexual Offences should be of the same gender as the complainant.</p>	
19	In terms of prosecution, policy should reflect that the complainant's wishes must be carefully considered.	
20	All points of contact with the complainant should emphasise the protective measures to which the complainant has access, as well as the procedures to follow in obtaining these orders.	
21	<p>a. Policies should emphasize the basis on which no contact orders are made and how these orders restrict offenders.</p> <p>b. Clear guidelines for official communication regarding no contact orders should be laid out to all parties involved.</p>	
22	The policy should clearly state that prosecutors may not discontinue an investigation based on who the respondent is.	
23	The definition of consent contained in the policies needs to be revised.	
24	Further detail on how incidents that occur between staff and students are dealt with is required in all of the policies.	

	<b>Recommendation</b>	<b>Person/Unit Responsible for Implementing Recommendation</b>
25	It should be made clear in the Grievance Procedure Policy that staff are entitled to initiate a grievance procedure on the basis of sexual harassment.	
26	<p>a. Sexual harassment and assault need to be defined in the Staff Disciplinary Procedure.</p> <p>b. Sexual harassment of any kind should be dealt with under Category B serious offences.</p> <p>c. Sexual violence and assault and severe sexual harassment should be dealt with under Category C offences.</p>	
27	In cases of serious sexual violence, charges in the alternative that are sufficient for exclusion/dismissal should be considered.	
28	The University should employ both internal and external prosecutors.	
29	<p>a. Prosecutors should be conversant with gender and sexuality issues and not just the law.</p> <p>b. Prosecutors should also have a background in sexual offences law and practice.</p>	
30	<p>a. The policy should include the procedure to follow in obtaining a no contact order and suspension order from the Sexual Harassment Office.</p> <p>b. The policy should outline the process to be followed in order to obtain a protection order from the magistrate's court.</p>	
31	The policy on Eradicating Unfair Discrimination and Harassment needs revision (as indicated in recommendation 4c).	
32	Pre-enquiry phase should be small committee followed by larger advisory committee, if necessary. Scrap the Fairness Forum.	
33	The new Sexual Offences policy needs to refer to the protocol governing intimate relationships between staff and students.	
<b>Mediation and Restorative Justice</b>		
34	A clear distinction is made between mediation and restorative justice; it may be inappropriate for more serious cases and cases where there is a large power differential to be resolved in this manner as mediation implies resolution of a conflict rather than a form of justice.	
35	During mediation, it should be made clear that a mediation agreement is binding and that failure to abide by the agreement could result in disciplinary action.	
36	The RESTORE procedure of a restorative justice conference should be followed.	
37	Funding should be sought to bring an expert in restorative justice to Rhodes to provide guidance and training.	

Recommendation	Person/Unit Responsible for Implementing Recommendation	
<b>The Provision of Safe Spaces</b>		
38	<ul style="list-style-type: none"> <li>a. A dedicated safe house should be made available for complainants.</li> <li>b. No pressure should be put on a complainant to move out of residence/digs.</li> <li>c. There should be more than one bed in each room of the safe space for a friend or family member.</li> <li>d. There should be a set time limit that a complainant can stay at the safe space.</li> <li>e. The safe space keys should be kept at CPU.</li> <li>f. There should be a sub-warden who can help the complainant settle in.</li> <li>g. Packed meals and a care pack should be provided to complainants.</li> </ul>	
39	Cases of harassment should be removed from the responsibility of the Manager of Student Wellness.	
40	An online reporting system such as Callisto should be developed.	
41	<ul style="list-style-type: none"> <li>a. Peer supporters should provide on-going and sustained support for complainants.</li> <li>b. Training and debriefing opportunities for the peer supporters should be provided.</li> </ul>	
42	<ul style="list-style-type: none"> <li>a. The option of speaking to a psychologist in the Counselling Centre should be made clear to the complainant.</li> <li>b. Psychologists and interns working at the Counselling Centre should be versed in dealing with cases of sexual violence.</li> <li>c. The case load of the Counselling Centre should be reviewed on a regular basis to see if additional human resources are required.</li> </ul>	
43	The Academic Project and Protocol Facilitation Committee should investigate interventions which highlight the importance of mutual respect and tolerance of different political practices and engagements specifically in residences.	
<b>Increasing Student Safety</b>		
44	Bystander intervention training should be included in the Orientation Week Programme of first year students.	
45	<ul style="list-style-type: none"> <li>a. A customized cell phone safety app should be developed/explored.</li> <li>b. Students should be made aware of this app and encouraged to use it.</li> </ul>	
46	Contact numbers and physical addresses of doctors, the hospital, the Sexual Harassment Office, and the Counselling Centre should be made available to all students and staff in the form of business cards, flyers, and posters on campus and online.	

Recommendation	Person/Unit Responsible for Implementing Recommendation	
<b>Increasing Awareness and Training on Campus</b>		
47	<p>a. A code of conduct that covers sexual violence, offences and harassment should be developed.</p> <p>b. Every student and staff member should be required to sign a declaration.</p>	
48	<p>a. Every staff member should complete an online training programme.</p> <p>b. More comprehensive workshops (which will include basic counselling skills) should be provided for those who are more likely to be approached by complainants.</p>	
49	All staff and students should complete an online training programme on sexual violence.	
50	A range of in depth workshops should be provided to those who are likely to assist and support complainants.	
51	The Student Leadership Training Programme should be revised and continue.	
52	A re-imagined Orientation Week and beyond.	
53	More facilitated residence discussions should take place.	
54	Sexual Violence Representative portfolio should be added to the residence House Committees.	
55	Facilitated discussions/workshops should be provided to all levels of staff at the University.	
56	<p>a. Community engagement projects (such as GASP) should be encouraged.</p> <p>b. A registry should be kept of all projects/people/units involved with issues of gender and sexual violence.</p>	
57	The Sexual Harassment Office and GenAct should work with OutRhodes and GAP student societies in implementing the recommendations of this report.	
58	The Silent Protest needs to be re-imagined.	
59	The housing and resourcing of the annual “My Body, My Choice” campaign needs attention.	
60	Information should be provided to people who either feel that they may have committed sexual harassment (wittingly or unwittingly) or who have been accused of sexual harassment.	
61	The Sexual Harassment Office should keep a log of on-going extra-curricular activities on campus which challenge rape culture, and provide an over-arching co-ordination function of these activities.	



Recommendation	Person/Unit Responsible for Implementing Recommendation
<b>Inclusivity and Institutional Culture</b>	
62	The Office of Equity and Institutional Culture should be empowered to bring about transformation at the University.
63	The QUORL Survey should be revised and resumed.
64	<ul style="list-style-type: none"> <li>a. The QUORL Survey items should be phrased in a clear unambiguous way.</li> <li>b. The Survey should be submitted online.</li> <li>c. The results of the survey should be published.</li> </ul>
65	A way of gathering information about the experiences of students living in digs needs to be developed.
66	<ul style="list-style-type: none"> <li>a. Student media editors, writers and moderators should reflect on how they support certain University culture(s).</li> <li>b. The Media Representative of the SRC should monitor the SRC Facebook Page.</li> </ul>
67	Campus Culture initiatives like "Purple Thursdays" should be reviewed.
68	Identified informal gendered socialisation practices on campus need to be unpacked.
69	An "enthusiastic" consent campaign should be held in Grahamstown's bars.
70	Oppidan wardens should engage with Oppidan students regarding gendered practices that occur within digs.
71	<ul style="list-style-type: none"> <li>a. Residence staff should receive training.</li> <li>b. Each House Committee should have an Anti-Sexual Violence Representative.</li> </ul>
72	Hall wardens and house committee members need to engage with students in changing residence culture.
73	"RU Jamming" should be reviewed.
74	Institutional responses on transformation and institutional culture requires attention.
75	The policy on relationships between staff and students should be revisited and updated.
<b>Promoting Conversations</b>	
76	There should be more facilitated conversations around curricula and issues of sexual violence between staff and students.
77	Staff members should be provided with a space to discuss methods of embedding issues of sexual violence into their curricula.
78	Theatre interventions should be used to bolster other activities on campus which tackle rape culture.

Recommendation	Person/Unit Responsible for Implementing Recommendation
79 Sustained dialogue should be supported by the Sexual Harassment Office as well as the Equity and Institutional Culture Office.	
<b>The Implementation of a Common Course</b>	
80 A common undergraduate course should be implemented as a DP requirement.	
<b>Embedding Sexual Violence Prevention in the Curriculum</b>	
81 All faculties should produce a report considering ways of including issues relating to sexual violence and rape culture into their curricula.	
<b>Transformation of Teaching and Learning Spaces: The Construction of Deliberative Spaces</b>	
82 A multi-disciplinary course in the theory and practice of deliberative democracy should be developed at the University.	
83 The theoretical and conceptual tools of 'disruptive pedagogies' should be used to resist rape culture in the classroom context.	
84 The invisible curriculum of the University needs to be examined.	
85 Existing staff should have the option of completing a course/workshop on discourses of rape culture and sexual violence.	
86 More students should be involved in the Academic Orientation Programme.	
87 A booklet containing various case studies and ideas of how rape culture can be countered at curriculum level should be produced.	
<b>Towards a Clear Institutional Ethos of Engagement with Society</b>	
88 <ul style="list-style-type: none"> <li>a. A 'commitment statement' should be drafted by the University.</li> <li>b. University staff should be required to sign a declaration of their commitment.</li> </ul>	
89 <ul style="list-style-type: none"> <li>a. Two non-executive posts within the SRC should be established.</li> <li>b. The SRC should investigate ways of establishing a Student Safety Forum.</li> </ul>	
90 The Sexual Harassment Office, the Equity and Institutional Culture Office, Community Engagement Office, GenAct, Gender Action Project and SRC need to engage with other stakeholders in our country.	
91 <ul style="list-style-type: none"> <li>a. The Sexual Harassment Office should compile a list of researchers conducting relevant research.</li> <li>b. Workshops on writing policy briefs should be held with these researchers.</li> <li>c. The possibility of obtaining research funding should be considered.</li> </ul>	

## APPENDIX 10:

### DEFINITIONS OF SEXUAL OFFENCES AS APPEARING IN CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT 32 OF 2007.

#### Rape

Any person (A) who unlawfully and intentionally commits an act of **sexual penetration** with a complainant (B), without the **consent** of B, is guilty of the offence of rape

“sexual penetration” includes any act which causes penetration to any extent whatsoever by – (a) the genital organs of one person into or beyond the genital organs, anus, or mouth of another person; (b) any other part of the body of one person or, any object, including any part of the body of an animal, into or beyond the genital organs or anus of another person; or (c) the genital organs of an animal, into or beyond the mouth of another person

**consent** means voluntary or uncoerced agreement.

#### Sexual assault

(1) A person (A) who unlawfully and intentionally **sexually violates** a complainant (B), without the consent of B, is guilty of the offence of sexual assault.

(2) A person (A) who unlawfully and intentionally inspires the belief in a complainant (B) that B will be **sexually violated**, is guilty of the offence of sexual assault.

“**sexual violation**” includes any act which causes – (a) direct or indirect contact between the – (i) genital organs or anus of one person or, in the case of a female, her breasts, and any part of the body of another person or an animal, or any object, including any object resembling or representing the genital organs or anus of a person or an animal; (ii) mouth of one person and – (aa) the genital organs or anus of another person or, in the case of a female, her breasts; (bb) the mouth of another person; (cc) any other part of the body of another person, other than the genital organs or anus of that person or, in the case of a female, her breasts, which could – (aaa) be used in an act of sexual penetration; (bbb) cause sexual arousal or stimulation; or (ccc) be sexually aroused or stimulated thereby; or (dd) any object resembling the genital organs or anus of a person, and in the case of a female, her breasts, or an animal; or (iii) mouth of the complainant and the genital organs or anus of an animal; (b) the masturbation of one person by another person; or (c) the insertion of any object resembling or representing the genital organs of a person or animal, into or beyond the mouth of another person.



