

P O L I C Y B R I E F

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Strengthening and the expansion of policies for filicide prevention and responses

KEY MESSAGES

- **The Mediation in Certain Divorce Matters Act 24, of 1987 should be revised to make provisions for unmarried parents to access the services of the Office of the Family Advocate**
- **Poison control strategies should be strengthened to regulate the sale of pesticides in the informal sector.**

Introduction

Filicide is defined as the act of killing a child, from newborns up to 18 years old, committed by either a biological, step, foster or adoptive parent¹. This unfortunate phenomenon is common in South Africa and occurs under various circumstances distinct from homicides associated with child maltreatment, as parents or caregivers intentionally take the lives of their children.

The crime predominantly occurs within the confines of the home, where parents employ readily available materials and objects, as well as deceptive tactics, to entice and ultimately harm their children. Disturbing child murder statistics for South Africa reveal a troubling trend between October and December 2020, the rate of attempted child murders saw a sharp 30% increase². In the subsequent year, spanning from October to December 2021, a devastating total of 352 children lost their lives on average, nearly four children per day² (Figure 1).

In South Africa, child homicides are not acknowledged as a distinct crime category but are encapsulated within the common-law crime of murder³. This oversight underscores the failure to afford child homicides the requisite and unique policy attention they demand. Moreover, the neglect of sub-categories within child murders carries significant policy and practice implications.

The absence of proper categorization makes it challenging for policymakers and service agencies, including law enforcement to comprehend the subtleties of child homicides, recognize the evolving patterns, identify opportunities for coordinated and collaborative action, and allocate resources effectively.

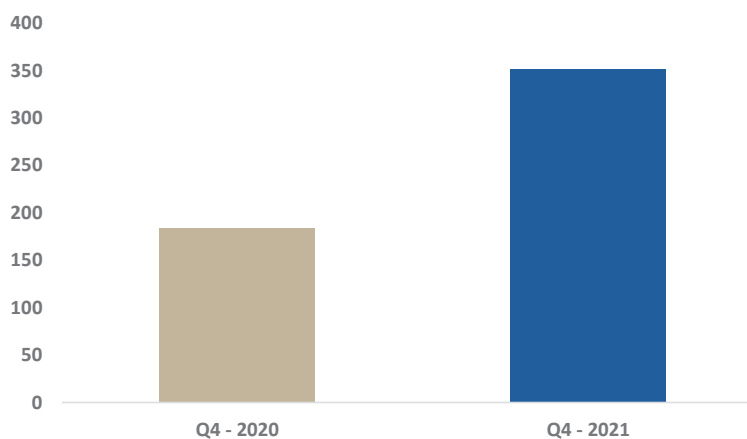


Figure 1: Increase of filicide trends between October - December 2020 where we saw a sharp increase of 30%. The trend further shows a increase of filicide of approximately 48% year on year.

Consequently, this lack of categorization can obstruct the development of targeted prevention strategies, particularly for incidents like filicide that occur without prior child protection or domestic violence reports to authorities. This policy brief is designed to bring to light the disparities and insufficiencies in policies pertaining to filicide prevention and response, with the ultimate goal of offering recommendations for the enhancement of such policies.

Policy and institutional context

In South Africa, the reform of legal procedures concerning the dissolution of long-term intimate partnerships between unmarried individuals holds the particular significance within the framework of child protective laws, particularly in the context of addressing violence against children and filicide. Given that many South African families do not conform to the traditional nuclear family structure with married parents and children, numerous families are comprised of parents who cohabit or co-parent. Section 21(3a) of the Children's Act of 2005 outlines that all parental disputes must undergo mediation by the Family Advocate. However, several concerns have been identified in relation to family mediation within this framework. Notably, the Act fails to specify the steps to be taken if either party fails to attend the mediation process. There is no provision for situations where no consensus is reached on a parenting plan⁴. Historically, the Mediation in Certain Divorce Matters Act 24, of 1987 only provided protection to children whose parents were married when these parents were divorcing. These families had access to services of the Office of the Family Advocate⁵. The primary objective of the investigation and report produced by the Office of the Family Advocate, is twofold:

1. To determine the best interests of the children
2. To provide recommendations to the court.

Children born to unmarried parents had fewer legislated provisions available to them. A significant barrier was that obtaining a court order was a prerequisite for accessing the Office of the Family Advocate during relationship dissolution or when disputes arose concerning parental rights and responsibilities. However, a groundbreaking development occurred in July 2023, when the Constitutional Court ruled that Section 4 of the Mediation in Certain Divorce Matters Act 24 of 1987 was unconstitutional because it failed to protect children whose parents were not married or had never married. As a result, parliament has been given a 24-month window to amend the law. This ruling presents a significant milestone as it recognises the rights of children born to unmarried parents, same-sex partners, and committed life-partner relationships to access the services provided by the Office of the Family Advocate.

The authors of this policy brief conducted a retrospective systematised review of media reports covering filicide cases that occurred in South Africa between 2003 and 2023. The objective was to identify patterns and characteristics associated with filicide.

The review brought to light significant gaps in the regulatory framework pertaining to the control of pesticides used for fatal human poisoning, which emerged as a key factor in the common procedure for committing filicide.

Similarly, while research has recognized the issue of exposure to toxic pesticides within households as a public health issue, the use of street pesticides, informally sold, has become a preferred and cost-effective method to control pest infestations such as rodents and insects, in low income, densely populated peri-urban communities in South Africa⁶⁻⁸. These street pesticides can be categorized in two ways. The first type is approved by and registered with the Department of Agriculture and Rural Development for agricultural purposes, but it is often transferred into containers without proper labelling and instructions, which constitutes an illegal practice. The second type is not approved by or registered with Department of Agriculture and Rural Development, yet it is packaged with labels and instructions and is frequently imported from China. Policy recommendations stemming from previous studies primarily focus on preventing accidental fatal poisoning of children within the home setting but, remained silent on the issue of accessing pesticides with the intent to harm humans.

The current pesticide legislation, specifically the Fertilizers, Farm Feeds, Seeds, and Remedies Act 36 of 1947, is outdated and falls short in regulating and controlling how pesticides are obtained or sold for what purposes they are used for. For instance, despite their lethality and potential harm to humans, pesticides can be purchased without a license or a proof of purchase (in stark contrast to other lethal objects such as firearms, which are strictly regulated). Furthermore, these pesticides are frequently misused with instructions often disregarded or not used for the intended purpose, of all this happening with inadequate surveillance and enforcement. South Africa, as a signatory to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and being largest importer of pesticides on the African continent, lacks effective enforcement mechanisms, particularly in the informal business sector, for regulating access to pesticides. This situation compromises children's fundamental right to life due to the inadequacy policy measures in controlling pesticides.

Results and conclusion

Parental relationship status and implications for family mediation

Parental relationship status and its implications for family mediation emerge as crucial consideration in understanding the occurrence of filicide and the protection of children's well-being when parental relationships dissolve. However, research on this topic presents inconsistencies. For instance, studies conducted in the United States and Canada^{9,10} suggest that single parents are more likely to commit filicide, whereas Eke et al. (2015)¹¹ found that married Turkish women were more likely to perpetrate filicide. The review of media reports on filicide cases in South Africa conducted underscores the need to pay a particular attention to the relationships of unmarried parents when these relationships pose threats to child well-being and survival. Alarming, 36% of filicide cases occurred when parents were in a long-term unmarried partnership, and 23% of cases happened during or after parental separation.

Currently, only children born to married parents are provided protection when their parents' marriage dissolve, as they have access to the services of the Office of the Family Advocate⁵. This situation implies that a substantial number of children and families are at risk of not having direct access to statutory family services. Moreover, it leaves children and families who may be vulnerable to filicide and other forms of violence, excluded from this potentially protective service. To ensure equal access for all children, it is imperative that every child, regardless of their parents' relationship status, should have an opportunity to engage with the Office of the Family Advocate for prompt mediation¹². Discrimination against children in South Africa is prohibited and all threats to their lives must be treated as human security concerns. Therefore, it is incumbent upon policymakers to address these gaps in family mediation services to provide comprehensive protection for children in the country.

Modes of murder and child exposure to toxic poisons

Some of the common methods of filicide bear a resemblance to other forms of murder occurring in South Africa, such as assault and strangulation¹³; as they predominately involve direct and interpersonal violence. However, poisoning stands out as the most prevalent mode of murder, which is somewhat perplexing considering the overall nature of violence in the country.

An analysis of media reported filicide cases reveals that the three most common modes of killing were poisoning (27%), followed by strangulation and suffocation [using hands, rope, or plastic bag] at 15%; and assault [beating with hands no objects and or bludgeon with sharp or blunt objects e.g. sledgehammer, axe, rocks], also at 15% (Figure 2.)

In terms of age of victims, poison was the primary method of killing for infants less than one year old (n=3); children between 6 and 10 years (n=8); and children between 11 and 15 years (n=5).

The research of Balme et al. (2012) indicates an increase in morbidity and mortality related to child poisoning through the use of street pesticides, compared to substances such as kerosene¹⁴.

Davies et al (2023) also emphasize the role of highly hazardous pesticides in child hospitalisation and death in low-income peri-urban areas in Cape Town⁶. These findings raise serious concerns regarding child rights violations and significant issue of childhood exposure to highly toxic pesticides. Intentional child poisoning, while widely studied can be seen as a cost-effective and uncomplicated yet brutal method of murder. It requires no elaborate execution plan and can easily integrated into mundane family life activities such as feeding children. This grim reality underscores the urgent need for measures to prevent child poisoning and protect children from such heinous act.

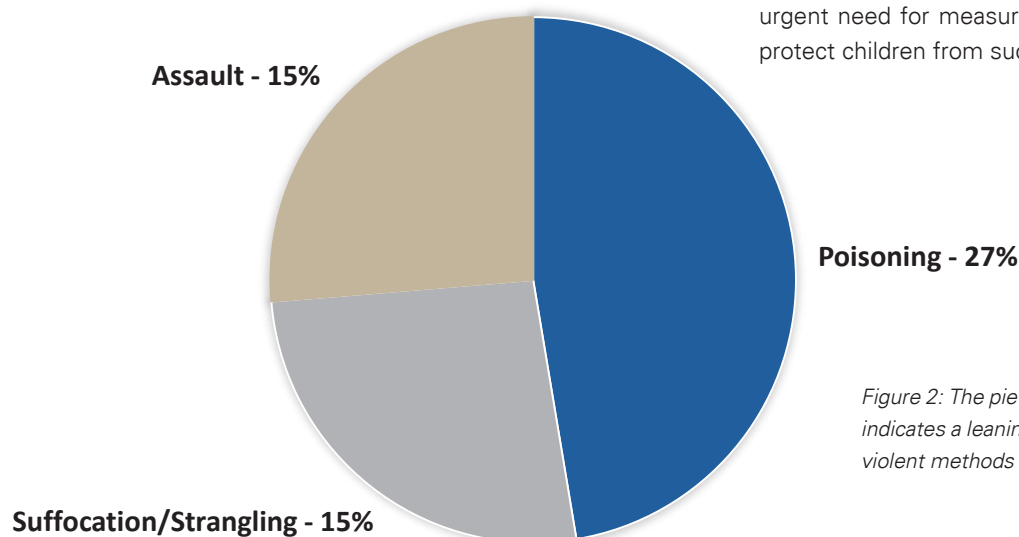


Figure 2: The pie chart indicating the modes of filicide indicates a leaning toward poisoning versus the more violent methods of murder.

Policy Recommendations

It is essential that policies are regularly reviewed and adapted to respond to evidence on threats to human security, meet evolving needs and challenges of families and children. We provide recommendations that pertain to the availability and access and to family mediation services as well as the regulation and control strategies for pesticides. In terms of family mediation, we identify recommendations that are aimed at the beneficiaries of services as well as service providers and implementers.

FAMILY MEDIATION

1. Beneficiaries of services

- The Department of Social Development and Department of Justice and Constitutional Development should jointly launch an awareness initiative. This initiative should educate the public about the services of the Office of the Family Advocate and local family mediation organizations.
- This should provide clear information on when and how to access these services, making accessible to those families in need.

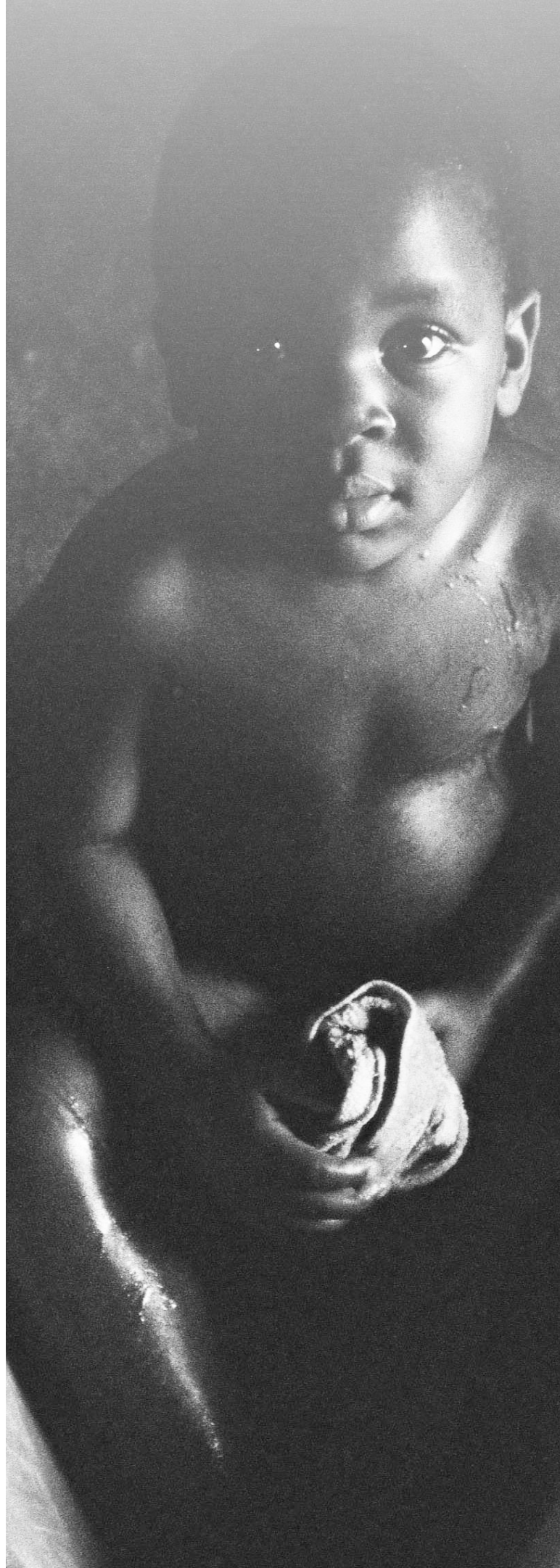
2. Service implementation

- The Department of Justice should take the initiative to develop guideline documents and standard operating procedures for cases in which parents cannot reach a consensus on parenting plans.
- The standard procedure will provide clear and structured steps preventing a 'dead-end' case that remain unresolved.

POISON CONTROL, REGULATION AND SURVEILLANCE

Implementing poison control strategies in collaboration with various stakeholders, including the Department of Agriculture and Rural Development, local government authorities and trade licensing agencies, is essential for mitigating the risks associated with pesticides. Here is a concise formulation of recommendations:

1. Ensuring that all sellers are registered and possess the necessary licences to distribute legal substances.
2. Implement more rigorously and routine documentation of pesticides purchases through a register that captures the details of the purchaser and their intended use.
3. To support the pesticide industry in developing and promoting low-toxic alternatives that are both effective and affordable, which can be suitable for sale in the informal market.



References:

1. Debowska A, Boduszek D, Dhingra K. Victim, perpetrator, and offense characteristics in filicide and filicide-suicide. *Aggress Violent Behav.* 2015;21:113-124. doi:10.1016/J.AVB.2015.01.011
2. Muhigana C. 352 child murders in ninety days are 352 too many. Published online February 2022. <https://www.unicef.org/southafrica/press-releases/352-child-murders-ninety-days-are-352-too-many>
3. Moen M, Bezuidenhout C. Killing your children to hurt your partner: A South African perspective on the motivations for revenge filicide. *J Investig Psychol Offender Profiling.* 2022;20(1):33-47. doi:10.1002/jip.1603
4. Paizes YP. The Position of Unmarried Fathers in South Africa: An Investigation with Reference to a Case Study. University of South Africa.
5. Moosa, Taariq. Unmarried parents deserve same family advocate rights as married ones, top court rules. Accessed September 5, 2023. <https://www.businesslive.co.za/bd/national/2023-07-02-unmarried-parents-deserve-same-family-advocate-rights-as-married-ones-top-court-rules/>
6. Davies B, Hlela MBKM, Rother HA. Child and adolescent mortality associated with pesticide toxicity in Cape Town, South Africa, 2010–2019: a retrospective case review. *BMC Public Health.* 2023;23:792. doi:10.1186/s12889-023-15652-5
7. Rother HA. Falling through the regulatory cracks: street selling of pesticides and poisoning among urban youth in South Africa. *INT J OCCUP Env Health.* 2010;16.
8. Rother HA. Pesticide Vendors in the Informal Sector. <http://dx.doi.org/10.1177/1048291116651750>. 2016;26(2):241-252. doi:10.1177/1048291116651750
9. McCarroll JE, Fisher JE, Cozza SJ, Robichaux RJ, Fullerton CS. Characteristics, classification, and prevention of child maltreatment fatalities. *Mil Med.* 2017;182(1):e1551-e1557. doi:10.7205/MILMED-D-16-00039
10. Dawson M. Canadian trends in filicide by gender of the accused, 1961-2011. *Child Abuse Negl.* 2015;47:162-174. doi:10.1016/j.chiabu.2015.07.010
11. Eke SM, Basoglu S, Bakar B, Oral G. Maternal Filicide in Turkey. *J Forensic Sci.* 2015;60(s1):S143-S151. doi:10.1111/1556-4029.12560
12. Nordien-Lagardien R, Pretorius B, Terblanche S. Family Mediation: The Perceptions and Experiences of Unmarried Parents and Mediators. *Soc Work.*
13. Khan G, Makoae M, Maphosho N, Makitla D, Mohlabane N. Unpacking the patterns and characteristics of filicide in South Africa: A review of media reports.
14. Balme K, ChB Clare Roberts MJ, Hons B, et al. The changing trends of childhood poisoning at a tertiary children's hospital in South Africa. *Afr Med J.* 2012;102:142-146.