

RESPONSES TO VIOLENCE AGAINST WOMEN

Comprehensive responses to violence against women mean that we must address both the causes and the effects of violence. Addressing the causes means first understanding and then transforming the social and economic relations that lead to violence. This is a huge task that entails working at individual, family, community and societal levels to address a broad range of issues from the economic empowerment of women to the transformation of gender relations. Part of this entails working with men. The details of what this might mean are discussed in this report. Little focused attention has been paid to the problem of removing the causes of violence.

Dealing with the effects of violence has been the primary focus of the state and civil society over the past decade. These responses seek to protect and assist women who have been victims of violence and to empower them to leave abusive relationships. They also seek to establish appropriate legal provisions and procedures that ensure that perpetrators are effectively removed and/or punished.

This section provides a brief overview of state and civil society responses, before commenting on their necessity and efficacy. It also begins to identify the place that programmes that work with men might occupy amongst a host of responses to end violence against women in a context of limited resources.

Responses by the state

The problem of violence against women has generated a range of specific responses from the state since 1994. Prior to that, there was little by way of policy and legislative responses. In the past ten years, South Africa can be said to have responded relatively well to the problem of violence against women in constitutional, legal and policy terms. However, enormous challenges remain in the area of implementing these policies and enforcing the laws.

Responses by the state are in fact shaped by the values it ascribes to women and men and gender work in particular. Since 1994, the state has attempted to develop a human rights context through meeting international obligations and creating a positive legislative and policy framework.



INTERNATIONAL OBLIGATIONS

A plethora of international and regional agreements exist on the issue of violence against women. South Africa is party to, or a signatory of, all the significant instruments. The SA government has signed the 1995 Beijing Platform for Action, the 1997 SADC 'Declaration on Gender and Development' and the 1998 addendum entitled 'The Prevention and Eradication of Violence Against Women and Children' (of a more binding nature and commits signatory states to take certain prescribed actions to address VAW). In addition, the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was signed in 1995. These international agreements provide a framework for activities by the state and civil society.

THE CONSTITUTION

South Africa is fortunate to have a comprehensive constitutional framework that includes specific references to the right to be free from violence from both public and private sources, as well as general rights to freedom and security of the person, equality and dignity.¹ Central to this is the Bill of Rights (Chapter 2 of the Constitution), which states that:

- Everyone is equal before the law and has the right to equal protection and benefit of the law.
- Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken.
- The State may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

Where the Constitutional Court has been called upon to adjudicate issues of the state's responsibilities, it has responded positively:

- *S v Baleka* tested the constitutionality of provisions of the 1993 prevention of Family Violence Act (the predecessor of the Domestic Violence Act). The Constitutional Court showed itself prepared to balance an alleged perpetrator's right to a fair trial with the constitutional duty of the state to provide effective remedies against domestic violence;
- *Carmichele v Minister of Justice* tested the delictual responsibility of the state to protect women. This case found that the state had a duty to protect women in general and in the circumstances of the case.

However, constitutional interpretation of these rights that protect women against violence remains limited and more work needs to be done to develop the ambit of protection afforded by these rights. For example:

- We still need to develop the full meaning of the constitutional values of freedom and equality in the area of violence against women and make them part of everyday discourse;
- We still need to develop the full ambit of protection of the rights, especially the right to freedom and security of the person;
- The extent of protection afforded by the rights at a private level has not yet been tested.

These issues are important to the question of protecting women and working with men. Debates about the meaning of constitutional values and human rights could also be debates about our understanding of the position of women and men in this society, and thus play a role in the transformation of attitudes.

Policy

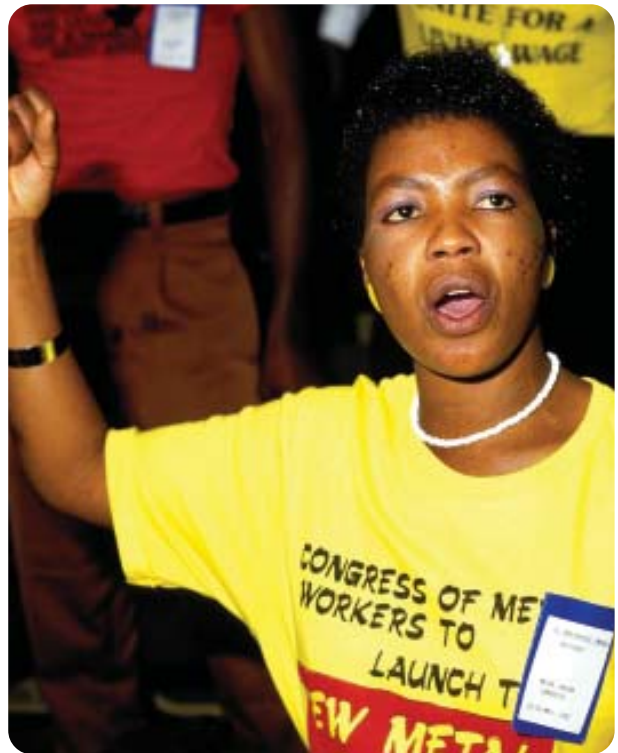
In general, there has been substantial policy development within individual government departments dealing with particular aspects of the problem of violence against women. What is missing is a comprehensive integrated national policy that addresses the problem of violence against women across various government departments. In addition, violence against women remains a 'gender (read women's) concern' that is carried out primarily by women and by (often marginalised) gender desks.

Even on specific policy and legislative initiatives, such as the Domestic Violence Act, there is no coherent national strategy dealing with implementation. Although the Act implicates the departments of justice, correctional services, social development and health, and each department tends to work in isolation on strategies for implementation. Nevertheless, most departments have developed programmes to deal with domestic violence, although lack of resources is hampering implementation efforts.²

INTERDEPARTMENTAL CO-ORDINATION

The absence of a comprehensive national strategy to guide the work of government and civil society in the sector points also to the absence of an overarching co-ordination mechanism to guide the implementation of programmes to eradicate gender based violence. In the context of scarce resources this is particularly important as resources can be leveraged through the co-ordination of initiatives, allowing for focused and streamlined interventions that target specific problems, as opposed to generic interventions and discrete and isolated projects. While gender has been mainstreamed in a range of programmes across government policy, co-ordination and implementation mechanisms are essential to maximise the efficacy of programmes. Such co-ordination will enable more effective monitoring of interventions and enhance accountability of programmes to women.

While much has been established in the area of policy, there is also a need for ongoing review to ensure that policies are meeting their goals. In addition, policies have not begun to address the question of involving men in ending violence against women.



At a local level, municipalities often have a general lack of awareness around gender issues. They often employ consultants who draw up highly technical Integrated Development Programmes which may not prioritise gender issues. Sometimes municipalities do not have the necessary skills to implement gender-sensitive policies. Training for both political leaders and officials is therefore crucial, although municipalities also have limited budgets and this can be a major constraint.

LEGISLATION

Parliament has made great progress in ensuring that legislation meant to improve both the position and condition of women is passed. Examples of this are:

- Choice of Termination of Pregnancy Act (1997)
- Domestic Violence Act (1998)
- Maintenance Act (1998)
- Customary Marriage Act (1998).

The labour laws that can be used to advance gender equality are:

- Labour Relations Act (1996)
- Basic Conditions of Employment Act (1998)
- Employment Equity Act (1999)
- Skills Development Act (1999).

A sectoral determination has been made under the Basic Conditions of Employment Act, and domestic workers were included under the Unemployment Insurance Act for the first time in 2003.

- Legislation in the area of domestic violence (originating in the 1992 *Prevention of Family Violence Act*) was revised in 1998. The *Domestic Violence Act* of 1998 is a comprehensive law that provides protection orders to women who suffer violence, including physical, sexual and psychological abuse, in the private and public spheres. Unlike other comparable laws in other democracies, the Act does not provide for counselling programmes for offending men.
- The law on rape remains in the process of reform. The South African Law Commission is currently finalising its report on the procedural and substantive law of rape.
- Laws passed to protect women against violence in the workplace include the *Employment Equity Act* 55 of 1998, which provides that harassment of an employee is a form of unfair discrimination. This is accompanied by the *Code of Good Practice on the Handling of Sexual Harassment* issued in terms of the Labour Relations Act.
- Protection against sexual harassment generally will also be provided for under the *Promotion of Equality and Prevention of Unfair Discrimination Act*, 4 of 2000 once it is fully implemented.
- Section 17 of the *Employment of Educators Act* 53 of 1998 considers it "serious misconduct" for a teacher to commit an act of sexual assault. The *South African Schools Act* 84 of 1996 provides for the punishment of students who commit acts of violence against fellow students or even teachers.

These laws are generally progressive and advanced forms of legal protection. Many of the problems of the existing laws lie in enforcement. However, there is still a need to complete the law reform process on rape and to lobby for the Equality Act to be fully implemented and then used to the benefit of women who suffer harassment.

LEGISLATIVE CHALLENGES

In addition, recent challenges include the Traditional Leadership and Governance Framework and the Communal Land Rights Act. The former reinforces the powers of traditional leaders and establishes a fourth tier of power, but without providing safeguards to balance this with increased representation for women in community leadership. Traditional leadership has generally restricted women's role in society, especially through their exclusion from leadership. The provision for the formal representation of traditional leaders on administrative structures is viewed as preferential treatment and has been opposed by the Commission for Gender Equality (CGE) and NGOs. Furthermore, they also have concerns with the maintenance of discriminatory cultural practices. Although the Act makes provision in general that community rules should not discriminate against women, there are no enforceable mechanisms in the act to monitor this. For example, stands/land will not be allocated to women unless they are over 40 years old and have children. The CGE and others will, however, be taking this to the Constitutional Court to challenge its constitutionality.

Policy and legislative reform by itself will evidently not eradicate gender-based violence. Such reforms must be accompanied by efforts to strengthen the implementation capacity of the state. This would include the training of officials to understand and implement these changes and an increase in funding to the sector to enable such implementation. Currently government does not provide funding for the training of officials. This is a short-sighted strategy but is also an opportunity for partnerships between government and civil society organisations to strengthen the implementation capacity of the state.

GOVERNMENT PROGRAMMES

Various programmes are in place in government departments to address violence against women.³

DEPARTMENT OF SOCIAL DEVELOPMENT

The Department has programmes relating to the provision of shelters and counselling services.⁴ However, it is only able to facilitate funding (usually subsidies via provincial departments) for less than half the shelters for abused women and children run by NGOs and civil society.⁵ Assistance is limited by resource constraints. The Victim Empowerment Programme, established in 1999 as a key programme of the inter-ministerial National Crime Prevention Strategy, provides support by way of counselling and information (the Department of Housing (DoH) and Department of Safety and Security (DSS) provide healthcare and police services). Provinces with projects that focus on women and girls receive priority funding.⁶

The department has also set up 'One-Stop Centres' in Queenstown (Eastern Cape) and Kwaggafontein (Mpumalanga) to provide a combination of services for women, including specifically trained police, health care services, courts, counselling services by government social workers and shelter provided by NGOs.⁷ These do not appear to provide counselling to perpetrators.

DEPARTMENT OF HEALTH

Section 4(3) of the Domestic Violence Act permits health service providers to bring an application for a protection order on behalf of a complainant. As the health care workers are often the first point of interaction, it has been suggested that they should not only make appropriate social and legal referrals, but also be competent to document and provide evidence for court proceedings.⁸ Resources still need to be devoted to the formulation of training guidelines/protocol and comprehensive training.⁹ Some training is provided by NGOs.

It is apparent from this brief scan of the work of two departments that available services are directed at assisting and protecting women and child survivors of domestic violence, not male perpetrators or men as a whole. In addition, resources are severely constrained and there remains a great need for more services. Further, there is evidence that comprehensive and holistic services are most effective in combating violence. More inter-departmental co-operation is therefore required to establish this objective.

CRIMINAL JUSTICE SYSTEM REFORM

There is a clear and urgent need for continued criminal justice reform in the area of domestic violence. Criminal justice systems have historically failed to protect women and children from men's violence. This must change, and men being held consistently accountable for criminal violence is an essential component. Areas of action include not only legislative change, and effective implementation of laws, but also a redefinition of the internal linkages within the criminal justice system itself.

Benefits of reform are, however, possible. This has been proven by a 1992 study of 678 domestic violence cases in the US¹⁰ showing that prosecutorial action of any type lowered the risk of recurring violence by 50% within six months of court settlement, when compared to the level of pre-prosecution violence. As a related point, Tolan & Edleson note that flexibility in pressing charges was found by the study to be useful (1995:3). Although a 'no-drop' policy may increase prosecutions, it was found that survivors preferred to use the threat of continued action as a deterrent, and it was found that giving the survivor a chance to drop charges was most effective in reducing recidivism.¹¹

A criminal justice approach to domestic violence is usually a post-event, downstream intervention, extremely costly, mainly concerned with criminal violence.¹² It often disempowers victims. It increases resistance from men, particularly poor and working class men and minority men who have prior individual

and collective experiences of the criminal justice system, has little emphasis on rehabilitation, and is experienced by men as punitive, not rehabilitative. Furthermore, women often do not want men in prison, for example, working class and minority women (Hurst, 2002:5-6).

While the importance of criminal justice reform cannot be underestimated, it can be said that the system has also failed men and points to the need for comprehensive approaches to working with men to change behaviour and attitudes at both an individual and collective level.

It has been argued that co-ordinated community responses to gender-based violence, together with strong criminal justice interventions, are more effective at addressing the causes of gender-based violence (Laing, 2002:17). A community development approach is advocated through community intervention and community advocacy programmes. These programmes provide a range of support services for families and survivors of gender-based violence. Through these programmes there is an increase in accountability and safety for survivors through strong community sanctions and relationships between criminal justice agencies and the community (e.g. the police).

IMPLEMENTATION CHALLENGES

The implementation of policies, laws and programmes therefore remains the key challenge in the provisions.

The main challenge appears to be in making the existing components of intervention work together more decisively and consistently (Gondolf, 2002a, cited in Laing, 2002:17). There are several reasons for this, as outlined below.

FINANCE

Problems of financial resources for programmes take three forms. The first is that there is often no, or insufficient, budgetary allocation, raising questions of political prioritisation and political will. Secondly, the allocation is often limited to personnel rather than programme costs meaning that capacity to implement programmes is restricted. Thirdly, funds may be underspent. This usually occurs in relation to personnel costs and suggests an absence of capacity within the state.¹⁹

In terms of budgetary allocations to the sector the absence of a comprehensive national strategy can once again be highlighted. The ability to secure resources for sustainable long-term programmes appears limited and the co-ordination of initiatives also constrained. Government programmes remain limited in their scope and impact resulting in *ad hoc* interventions with limited government capacity to monitor and evaluate the impact of programmes. The need for a political champion and policy co-ordination and implementation mechanism is essential to ensure sustainable interventions in the sector.

STATE CAPACITY

The state lacks sufficient capacity to act, as stated by Minister of Finance, Trevor Manuel, in his 2003 annual budget speech. This is both an opportunity



and a threat. Although it is a threat to the effective provision of services, it is an opportunity in that forms of gender training can therefore be built into programmes that seek to develop the capacity of the state.

PARTNERSHIPS

To address problems of capacity, the state has provided limited funding to non-profit organisations to take on some of the functions of service provision that could be provided by government. This funding is, however, often not enough to cover actual costs.¹⁴

The importance of partnerships between the state and civil society in the delivery of services to victims of gender-based violence cannot be underestimated. The state needs to assume overall responsibility for the co-ordination and implementation of initiatives in the sector. Donor funding is insufficient in addressing the extent of the problem. Sustainability requires long-term state involvement in efforts beyond criminal justice interventions; partnerships with civil society in the provision of co-ordinated community responses to gender-based violence are recommended.

The state also has a role to play in challenging attitudes and values through instruments of public policy; by encouraging dialogue on gender and violence; through public education campaigns; and strengthening a culture of democracy by emphasising gender equity and promoting an understanding of masculinities. Political prioritisation and the identification of a political champion to manage and facilitate this process of re-education is also required.

ATTITUDES

Effective implementation requires the transformation of attitudes. Given that state officials are implementing complex new acts that require a progressive understanding of gender relations, the

attitudes of officials have constituted a barrier to effective implementation. Research by the Centre for the Study of Violence and Reconciliation (CSVR) on the Domestic Violence Act found that a complex blend of cultural attitudes, which operate within discrete contexts, can either assist or retard effective implementation of the law. Some of these attitudes relate to ideas of masculinity.¹⁵

TRAINING

Training is the one area where men have been targeted by the state, often with the assistance of NGOs. The Justice College provides training workshops for magistrates, prosecutors and clerks respectively, although there is no automatic follow-up training.¹⁶ NGOs working in this field have secured donor funding that deals with social context training and domestic violence.¹⁷ The South African Government itself does not provide any funding for this area of work. This is an example of government limiting programme funding – thus constituting a fundamental obstacle to the transformation of key structures responsible for implementing the DVA.

The question of implementation raises huge problems of capacity and resources, with the services that are offered far outstripped by the need. Even though these services only target women, (the training of male officials has the overall objective of improving services for women), there remains an enormous amount to be done to secure comprehensive and effective services for women. Clearly, this has implications for the question of deploying already scarce resources to 'working with men'.

THE STATE AND VALUES

Is the state addressing the values and attitudes that underlie, support and reinforce violence against women? Is it engaged in the wider task of 'working with men' (see below) by challenging and transforming the values of our society? Is it also attempting to transform related societal approaches to violence itself, whether physical, emotional or sexual? Space does not permit an extensive discussion of this, but the answer appears to be that little progress has been made.

Even where there are attempts to address 'values', such as the moral regeneration movement, this occurs within a conservative discourse of 'protecting our women' and 'family values'. There is a huge need and opportunity to 'engender' the values of our new democracy. As noted above the new culture of human rights and constitutional rights is being promoted, and should only be underpinned by an internalisation of a supporting value system. To varying degrees there are cultural practices and traditions across all communities in South Africa that are being adjusted, transformed or renewed in order to give expression to the democratic and constitutional ethos of the new society. Such change must encompass all levels of society, from the individual to the collective. Societal change is key, as change on one

or a few of the smaller levels alone cannot be viably sustained if society as a whole is unsupportive or hostile to such change. For example, perpetrator programmes can be seen to be addressing negative outcomes, which may be the result of cultural programming regarding issues of power, control and gender. If the outcomes have further resulted from the negative impact of previous personal trauma, then society and the communities' approach to violence and conflict resolution will also play a major role in the individual's propensity to abuse those around him or her. Either way, the role of moral choice and acceptance of responsibility by the individual must not be downplayed.

Perpetrator programmes are often addressing the end result of such internalised processes, in other words men can be both inheritors and transmitters, through choice, of violence. To remove the impetus and dynamism from such influences, it is necessary to tackle the source of such behaviour and conditioning. This automatically leads to a focus on the values and norms held by society and their legitimising practices. Such attempts at change have obvious implications for how gender and power relations are more broadly constructed, but also has application to the support offered to individuals recovering from past trauma.

CONCLUSION

The social context has not yet been significantly impacted by these policies and laws. While this may be due to the youth of our fledgling democracy, it is clear that a comprehensive, integrated and realistic approach to reducing violence remains an important objective of the state and the women's movement. The place of working with and targeting men (both within and without the system) needs to be located within this.

Responses by civil society

Organisations in civil society began offering counselling and other services to women survivors of gender-based violence from the late 1970s. By the early 1990s, the gender-based violence sector was fast becoming one of the most resourced in civil society. These organisations range from well-resourced academic or research organisations to community-based organisations that are less well-resourced. They usually focus on one or more of the following:

- Service provision for survivors of violence (counselling, shelters, legal services);
- Advocacy directed at improving the constitutional policy and legislative framework, as well as implementation. Efforts are often underpinned by research into the causes and effects of violence, as well as the construction of masculinity and the viability of efforts at community and public education, as well as the viability of men's programmes.

- Education and training. Some organisations target specific groups (survivors of domestic abuse, youth, state officials) and general public to provide workshops and educational materials on issues related to violence against women;
- Programmes working with men specifically, whether in terms of re-education, training or counselling.

The great majority of these organisations target women. Very few exclusively target men, and even fewer offer unique and dynamic services for men. Some of the main efforts in this area have, however, been detailed in the accompanying case studies report.

The gender-based violence sector has been particularly influential in the development of policy and legislation. It has also been the mainstay of support and assistance to women who suffer gender-based violence. The emphasis has been on providing



services (including protection) to women and addressing the effects of violence. One of the consequences of this has been a sectoral approach (little cross-cutting work) and a particular form of dependence upon the state to address the problem of violence against women. Little attention has been paid to addressing the causes of gender-based violence within civil society.

Thus far, there are compelling reasons as to why the sector has developed in the way that it is has. Clearly it makes profound sense to address the constitutional, policy and legislative issues first. And it is clear that we are a long way from the full and effective implementation of that framework including reform of the criminal justice system. The question that this paper seeks to address, through addressing the issues of working with men, is whether and how we should begin to look to addressing the causes of gender based violence in our society. This is a difficult question

of resources, strategy, philosophy and politics. The next section will address some of these questions as they relate to the area of working directly with men. This focus is called for due to the increased emphasis placed internationally upon such efforts, and the need to inform local policy formulation in regard to these issues.

¹ In *S v Baloyi*, Sachs spoke of the fact that 'the state is under a series of constitutional mandates which include the obligation to deal with domestic violence: to protect both the rights of everyone to enjoy freedom and security of the person and to bodily and psychological integrity, and the right to have their dignity respected and protected, as well as the defensive rights of everyone not to be subjected to torture in any way and not to be treated or punished in a cruel, inhuman or degrading way.' para 11.

² Commission on Gender Equality: 2004

³ Much of the information contained in this section is drawn from the INTERFUND commissioned study: Zain, P, 2002, "Working with men to stop violence against women: Models and ideas"

⁴ Department of Social Development's Progress Report March 2002, pp18-22.

⁵ CASE 2000.

⁶ Joint Committee on the Improvement of Quality of Life and Status of Women *Report on Violence Against Women in South Africa*, February 2000 <http://www.pmg.org.za/docs/2002/appendices/020529final.htm>

⁷ Department of Social Development's Annual Report April 2001 to March 2002, p74.

⁸ Jewkes R, Jacobs T, Penn-Kekana L, and Webster N. Developing an Appropriate Health Sector Response

to Violence against women, June 2001.

<http://www.doh.gov.za/misc/workshop/june01.html>
Also see Nudelman, J. and Roderiguez, H, *Building Bridges between Domestic Violence Advocates and Health Care Providers*, 1999. <http://www.vaw.umn.edu/FinalDocuments/bridges.asp>

⁹ Ibid

¹⁰ (Ford and Regoli, cited in Edleson and Tolman: 1995: 5)

¹¹ this term is used to describe re-offending

¹² Much violence towards women by men is non-criminal (e.g. emotional, financial, social and spiritual abuse). (Hurst: 2002:6)

¹³ Vetten and Kahn (2003)

¹⁴ Briefing by Centre for Study of Violence and Reconciliation (CSV) to Parliament's Joint Committee on Improvement of Quality of Life and Status of Women, 15 May 2003. <http://www.pmg.org.za>. Also 'Little help for the helpers', Mail & Guardian September 13 to 19 2002.

¹⁵ Telephonic discussion with L Vetten on research in progress.

¹⁶ CASE 2000.

¹⁷ Law, Race and Gender, in particular, receives funding from SIDA to conduct basic social context training for magistrates, prosecutors and clerks at Justice College in Pretoria.