

# The South African Domestic Violence Act:

Lessons from a decade of legislation  
and implementation

26 - 28 November 2008  
Johannesburg, South Africa



**CSV**  
The Centre for the Study of  
Violence and Reconciliation

CONFERENCE REPORT

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## ACKNOWLEDGEMENTS

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The success of the conference is owed in large part to the Domestic Violence Act Conference Working Group comprising of the CSV; the Community Law Centre, University of Western Cape; the Gender, Health & Justice Research Unit at the Faculty of Health Science, University of Cape Town; Gender Links; Kwa-Zulu Natal Network on Violence Against Women; Masimanyane; Mosaic; Nisaa Institute for Women's Development; People Opposing Women Abuse (POWA); Thohoyandou Victim Empowerment Programme; Tshwaranang Legal Advocacy Centre (TLAC); Western Cape Network on Violence Against Women and Women'sNet. This collective working relationship is testament to the power of partnerships and the CSV would like to thank the Working Group for its meticulous management of the content and quality of the conference programme.

We would like to extend our appreciation to all the speakers for enlightening and insightful presentations, reminding us of the numerous initiatives underway to address domestic violence but also renewing our conviction to scale up efforts to eradicate domestic violence from society.

Finally the conference proved to be a vibrant, diverse and informative space as a result of the contributions of the participants and their candour in presenting the challenges relating to legislation and programming on domestic violence.

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# ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
CEDAW	Convention on the Elimination of forms of Discrimination against Women
CSO	Civil Society Organisations
CSVSR	Centre for the Study of Violence and Reconciliation
DHS	Demographic and Health Surveys
DV	Domestic Violence
DVA	Domestic Violence Act of 1998
CGE	Commission on Gender Equality
HIV	Human Immunodeficiency Virus
IPV	Intimate Partner Violence
KZN DCSL	Kwa-Zulu Natal Department of Community Safety and Liaison
NGO	Non-governmental organisation
POWA	People Opposing Women Abuse
RJ	Restorative Justice
SBCWC	Saartjie Baartman Centre for Women and Children
TLAC	Tshwaranang Legal Advocacy Centre to End Violence Against Women
VAW	Violence against Women
VEP	Victim Empowerment Programme

Within the body of this report the terms domestic violence, gender-based violence and intimate partner violence are used interchangeably.

# INTRODUCTION

Domestic violence in South Africa is a violation of women's human rights and threatens the fabric of democratic and political achievements garnered since 1994. Society can claim to develop while the social, economic and health costs of domestic violence impact upon individuals and communities. As a result concerted efforts to address domestic violence have long been part of the South Africa government's and civil society's agenda. Since transformation in 1994 and as a result and influence of the country's women's movement and key committed parliamentarians, important legislation and policies addressing domestic violence have been introduced. South Africa, in attempting to follow international trends, aims to develop and coordinate policy and practice and response to survivors of domestic violence with integrated and quality service delivery. The key piece of legislation passed by the South African government in this regard is the Domestic Violence Act 116 of 1998 (DVA).

On par with the criminal justice approach, the South African civil society has in the past ten years developed and implemented a number of interventions ranging from public awareness and education campaigns to provision of counselling, legal services and sheltering for survivors of domestic violence. Ten years of domestic violence implementation with its varied results is a poignant opportunity to reflect on the good practices related to domestic violence, as well as the areas that continue to serve as a barrier to the enjoyment of full citizenship rights by all.

## Conference Objectives

Specifically the conference aimed to:

- Take stock of the progress made in the struggle against domestic violence in South Africa since the promulgation of the Act;
- Reflect on the gains and challenges faced by both government and civil society in the eradication of domestic violence;
- Share and debate the developments at the continental and international level in the field of domestic violence;
- Map the way forward.

In addition to the formal conference panels, the conference provided a space for book launches, photographic exhibitions and movies, facilitating enjoyable networking opportunities while allowing participants to explore the fascinating history of one of South Africa's most notable heritage sites, Constitution Hill.

The conference was attended by approximately 140 persons from government departments, civil society organisations and academic institutions.

The conference's website, which is updated constantly, can be found on the Womensnet website, [www.womensnet.org](http://www.womensnet.org)

# WELCOME AND OPENING OF THE CONFERENCE

The conference was formally opened by Ms. Angelica Pino, Gender Programme Manager at the CSVR. She welcomed the participants on behalf of the conference Working Group and thanked them for their interest in and commitment to finding solutions to the problem of domestic violence. Ms Pino extended a particular welcome to conference guests and speakers who had travelled from the SADC region, Nepal, India and Argentina. The participants were encouraged to debate the issues candidly and vociferously in an attempt to chart a way forward that would result in more effectively implementation of the DVA.

## KEYNOTE ADDRESSES

### Ms Adele Kirsten: Executive Director of CSVR

Interventions and activism around domestic violence (DV) have, in the past ten years, been made by various levels. Some organisations have campaigned tirelessly for legislative change while others have been focused on service delivery. Drawing on the wealth of these experiences and the innovative ideas that have emerged, the conference provided three key opportunities to strengthen collective efforts to dealing with DV:

#### 1. Reflection on legislative changes and its successes and challenges to date

The conference provides a space to critically assess the nature and implementation of Domestic Violence Act (DVA), in particular looking at what initiatives have worked and how they can be duplicated, as well as what areas remain a challenge. It is also a key opportunity to reflect on the role of the State.

The value of strengthening the South African legislative framework cannot be underestimated. From 1994 to 2000 over 900 pieces of new legislation were passed. During this period the DVA was also passed amid high levels of activism from civil society organisations (CSO). CSO, at the time, enjoyed a particular relationship with government structures whereby they engaged with and had access to the legislative processes. As important stakeholders CSO were involved in developing policy papers and contributing to policy formulation and development. Building from this, CSO must determine how to use its leverage with both State and community-based structures to implement the DVA despite it being fundamentally flawed in some aspects. To some extent, the role of CSO has changed in the current political climate and access is arguably more difficult than during the inception of democracy. However this presents an opportunity to be more creative and innovative. An example of this would be CSVR's strategies on prevention of DV rather than solely focussing on responding to victims.

Advocacy should not be reduced to simple lobbying but rather lobbying must be understood only as an aspect of advocacy. The development of legislation should not be viewed simply as a means to end but legislation should be seen as a tool to raise awareness and champion for behaviour change. This means that civil society needs to understand its role in the process of social change and decide strategically where it may have comparative advantages and have the greatest impact. Whilst the state's role to implement and monitor legislation remains unchanged CSO must decide how best they can facilitate and impact upon these processes.

#### 2. Charting the way forward in working together

With the social climate vastly different from 1998 and the women's sector arguably more fragmented, networking mechanisms also need to change. The conference is the beginning of a discussion and mapping out of the method of working together in particular during this fluid political environment in which unprincipled alliances are evident. In regards to recent changes in the political landscape, few women have been seen and heard in the media discussing the manner in which political developments may impact women's lives.

Rather than working in parallel to each other organisations should be aware of initiatives within the sector and of other notable campaigns such as the "Action for a Safe South Africa" (ASSA). The campaign is a major attempt to include the private sector, particularly through committed funding, to be part of the solution to violence in society. With the CSVR on the ASSA steering committee this presents an opportunity for interested organisations to engage more meaningfully with this campaign.

#### *Gaining a clearer picture on the reality of the extent and magnitude of DV*

Despite a common perception held by many that DV is something that occurs in "other" races and cultures, in fact it remains a challenge across the globe. The phenomenon of DV is part of a bigger structural problem, that of violence in general. In South African society in particular, there is arguably a legitimisation and acceptance that certain matters can be and moreover should be, dealt with in a violent manner. The conference offers an opportunity of robust discussion and thorough debate in order to devise innovative, practical and concrete ideas for South Africa and beyond.

## Commissioner Bafana Khumalo – Commissioner Commission on Gender Equality (CGE)

Within the context of understandable cynicism of current political campaigns, the conference is being held at an opportune time when politicians are seeking to secure votes and allegiances. It is therefore an appropriate period for women's movement to organize in order to leverage for better accountability mechanisms by the government. This can be realised by encouraging political parties to present their manifestos and plans to promote the women's rights agenda.

### Bridging the gap between tradition and human rights

At one end of the rights spectrum there is a well-understood fascination with the deepening of democracy in South Africa. This is exemplified by the Traditional Leadership Act which compels traditional leaders to open up traditional structures to include women, and the promulgation of the Criminal Law (Sexual Offences and Related Matters) Amendment Act among others. At the same time however, there is a rise in political intolerance and the urgent advocating, in certain areas, of the Traditional Courts Bill. This Bill intends to give traditional leaders unprecedented authority in rural areas. Whilst the legal system is not fully capacitated in all parts of the country, there are many areas in which it does provide justice for victims. This may be comprised with the introduction of another court where women cannot present cases, where there is no clear jurisprudence and where traditional leaders are given legal standing simply because of their cultural identities. This is of particular concern in light of the fact that the majority of the traditional constituencies are women whilst decisions makers are men. Bridging this divide remains a challenge with organisations such as the CGE being called "anti-African" and "western" for articulating the rights of women living under traditional customs.

### Working with men

Working with men to end gender-based violence is now considered to be a key tenet in a holistic approach to eradicate this social ill. Certain organisations are committed to working with men to address dangerous masculinities and promoting respect for human beings across sex, gender, sexual orientation, religious and cultural..... These efforts should be intensified especially since the task of social change burden is placed upon women. A study conducted by the CGE on men's sector in South Africa discovered groundbreaking initiatives relating to men and the promotion of gender equality in both public sector and civil society settings. Some of the outcomes of the study were:

- Whilst there is visible support for working with men there is a need for increased focus on sustainability
- Greater clarity for roles of working with men is needed. In many cases men gather in response to the current women's right climate rather than in support of it
- Better accountability and dialogue across organizations is needed. Working with men must be done within the framework of a feminist agenda
- Efforts to work with and young men and boys is still minimal
- Work being done with men in rural areas is still insufficient as compared to urban areas
- Work with men must address broader socio-economic realities which exacerbate GBV such as financial dependency on abuser

### Recommendations

Certain policies that speak to DV such as the Gender Policy Framework should be reviewed and lead to legislation. At the present time the Framework is not enforceable and its implementation is questionable with supposed integration throughout a government department which results in no impact and little accountability.

The absence of an attached budget to the DVA is also problematic and consistently provides an excuse of lack of implementation by some government departments.

The work with men's organisations should be built on including working on prevention issues with boys in schools by among other things, promoting the concept of healthy relationships in a modern society.

The punitive side of dealing with DV must also be addressed with a review of the legislation relating to convictions for gender-based violent crimes.

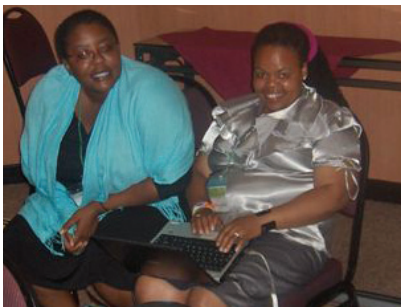
# IMAGES FROM THE CONFERENCE



# IMAGES FROM THE CONFERENCE



Prisoners sang to comfort and entertain each other, to communicate, to maintain solidarity, and to defy the authorities. But sometimes prisoners were forced to sing by the authorities and by the gang bosses, as a form of punishment and control. Press the button to listen to the songs that were sung by prisoners in the jails of the Old Fort Prison Complex.





## OPENING OF DOMESTIC VIOLENCE CONFERENCE AND EXHIBITIONS

On the 26 November 2008 two exhibitions were launched as side events to the conference. The exhibitions were held at Number Four Lekgotla space, Constitution Hill, Johannesburg.

### HEALING AND EMPOWERMENT: 10 YEARS OF PUBLIC AWARENESS RAISING AND EDUCATION ON DOMESTIC VIOLENCE

This exhibition showcased the public awareness and educational materials produced by civil society organizations on domestic violence during the past 10 years. Poster and pamphlets in different languages portrayed the changes in the ideological discourses of the women's movement of the country with regards to gender-based violence.



### WRITTEN ON HER FACE

A series of photographs taken by Nadine Hutton of Madelaine Bernardo, survivor of domestic violence and mother of the photographer.



During the evening, Gender Links director Collen Lowe-Morna and Grace Dimakatso Maleka launched the publication *The "I" Stories* with testimonies of survivors of domestic violence.

**Courage shines through the horrific stories as victims break their silence**

DEBORAH WALTER

Telling her story of abuse for the first time in Gender Links' annual "I" Story book last year, Sweetness Gwebu used a pseudonym, declined an accompanying photo and was interviewed for television with her identity masked. This year, she writes the foreword of the just launched 2008 publication using her own name and photo, remarking that "therapy comes from the healing process made possible by writing and reading your own story".

Each year ahead of the Sixteen Days of Activism, Gender Links invites people in Southern Africa affected by gender-based violence, women and men, to write their experiences. Published in a booklet, distributed in media and recorded for radio, these are the stories of the human faces behind the statistics, policies and programmes to tackle gender violence.

Though the media is full of stories of horrific gender-related crimes, the voices of those most affected, the survivors, are rare. The 2008 stories focus on some of the most marginalised communities: people living with HIV, women with disabilities, refugees, migrants and the lesbian and gay community. Written over a two-week period beginning and ending with a workshop to help writers draft their written accounts, for many this is the first time they have spoken of their abuse.

Gwebu's story is just one example of the personal impact of speaking out. Maleshoane Motliri told her story in the 2006 book, in 2007 she wrote the foreword, and in 2008, now a counsellor for People Opposing Women Abuse, she helped counsel others writing their stories.

For some, the impact on their life is immediate. During the first "I" Story session held in October this year, Blessing (a pseudonym) tearfully told how she survived an abusive husband but was now living with HIV and did not know how to tell her adult children.

When she returned two weeks later to share her written draft, she was ecstatic. Gaining courage from speaking out during the workshop, she went home and sat her children down, disclosing her status. They hugged her and gave her support. She chose the pseudonym Blessing because, although not ready to disclose her status publicly she felt blessed that she had found the courage to tell her children.

Grace Dimakatso Maleka, whose husband became abusive after she got her leg in an accident, was the keynote speaker at the launch of the

*The "I" Stories*

"I" Stories at an event at Constitution Hill this week that included an exhibition by award-winning photo journalist Nadine Hutton on her mother's horrific story of abuse.

"It helps me to talk openly, hoping to break the stigma and dispel some of the myths attached to disability," Maleka writes. "I believe that I am a beautiful creation of God. I may not be physically attractive (whatever that means) but I believe my spirit and soul carries a beauty that cannot be measured. I wish to share this beauty with the rest of the world... There is no time to look back; nothing is impossible for today's women."

For the first time, Gender Links initiated similar workshops in Namibia, Mauritius and Swaziland this year, although stories pour in from the entire region.

Men also come forward to share their stories. "To my father, beating and assaulting my lively mother was his way of proving his manhood," writes Fascal Akhmina. A Burundian who also witnessed the brutal rape of his young sister by soldiers in the Congo, he now works with EngenderHealth, an organisation that works with men. "I have dedicated my life to this work based on my principle of honouring my mother's experience, my sister's and myself, and as a man I will use my voice to bring change," he says.

Now in her early 20s, Natasha Kamplale's anger at the aunt who accused her of lying when she was raped at the age of 12 has stayed with her. The small scars on Etry Khoza's face are barely noticeable to anyone else, but are a reminder to her of the day a neighbour assaulted her simply because she is a disabled woman.

Regardless of differences of country, culture, sexual orientation, age or religion, accounts of gender violence are remarkably similar. The emotional pain of deteriorating relationships, social and cultural expectations discouraging people from standing up or walking out, concern for children and feeling as though there is nowhere to go, all give insight into the changes needed in our society.

Repeated throughout all of these stories are accounts of police telling severely beaten women to "go home and talk", families refusing to help and communities ignoring screams for help. Through the stories are horrific - Germina Setshedi's writes how her husband threw her from the fourth floor of their flat and Gugu Mofokeng recalls her boyfriend burning her house down and biting off part of her ear - the strength of the survivors is what really shines through.

Every year the stories inspire readers: Maybe by reading stories like these, everyone - from our neighbours to our leaders - will see the real faces behind what gender activists are shouting about for - equality and an end to violence.

Deborah Walter is the editor of the Gender Links Opinion and Commentary Service, and co-editor of the "I" Stories series.

PHOTOGRAPHS: COLLEEN LOWE-MORNA



# PLENARY SESSION 1

**Theme:** Taking Stock: Domestic Violence legislation and policies

**Facilitator:** Dr Lillian Artz

## SPEAKER 1

Wendy Isaacs, Legal Adviser, People Opposing Women Abuse (POWA)

### CLARIFYING THE DUTY OF THE STATE TO PROTECT: REFLECTION ON CEDAW AND THE OPTIONAL PROTOCOL

Solutions to address the negative impact of DV in South African society are commonly sought within domestic legislation such as the DVA as well as the Constitution. Appeals on behalf of victims usually appear in the Supreme Court of Appeal as well as the Constitutional Court. However, developments in the international women's rights arena are significant for South Africa largely because the country has signed and ratified the Convention on the Elimination of forms of Discrimination against Women (CEDAW) and also acceded to Optional Protocol to CEDAW. In doing so South Africa has pledged that all forms of DV will be dealt with by the State and there is a duty that all legislation complies with standards of international law. Specifically, the Optional Protocol allows the CEDAW Committee to receive and consider complaints from individuals or groups within its jurisdiction.

#### *The case of ?ahide Goekce*

A particularly significant case in regards to the role of the state in protecting women from abuse is that of ?ahide Goekce, a now deceased Turkish immigrant who lived in Austria. ?ahide was a victim of domestic violence and was eventually shot by her husband. Despite knowledge of her identity as a victim of domestic violence police and prosecutors found no grounds to detain the abusive. The NGOs that brought the case before the CEDAW Committee, Vienna Intervention Centre against Domestic Violence and the Association for Women's Access to Justice, argued that Austria, as a state that ratified the CEDAW convention, failed to take all appropriate measures to protect the victim. The organisation also asserted that legislation in Austria fails to protect women from violent, sustained acts of abuse. They also alleged that communication between the police and prosecutors were slow and inefficient, contributing to the victim's death. They specifically noted a number of violations made by the Austria state of international instruments including several within CEDAW.

#### *The CEDAW Committee's decision*

Although the Austrian government criticised the NGOs for going directly to the CEDAW committing without first seeking the assistance of local, regional and national courts, the committee concluded that requirement to exhaust all domestic remedies is complicated. They further argued that vulnerable women were not certain to obtain relief from abuse in an appropriate time frame. It is clear that women can only enjoy the benefits of legislations if procedure, policies and officials such as judicial officers, police and prosecutors also play their roles. The Committee found the Austrian government had failed to protect the victim and prevent her from becoming a victim of further violence. With the high rate of DV in South Africa it can also be argued that the South Africa government's continuous failure to respond effectively to DV is in violation to the Convention.

#### *Relevance to South Africa*

This case can contribute to and continue within the discourse of domestic violence as a public policy concern. In addition to this, ?ahide Goekce's nationality and legal status provokes questions around the connection between race, class and ethnicity and the quality of services received. In South Africa the majority of victims of DV are indigent, black women and this connection should can also be questioned and discussed. In many cases migrant issues are not seriously considered and DV cases for poor women are not dealt with beyond the level of magistrate courts.

*He threatens to kill her. He has pointed gun at her. Stabbed and raped her when refused to have sex with him. The respondent runs away when he sees police. He comes back after they have left and threatens her life. He has already pointed a gun at her. She laid a charge but he got away with no bail and brags that he is untouchable. She has run away from home and considers leaving Cape Town. Police told her to do whatever she sees fit as they cannot chase the respondent anymore*

*(Case study from research conducted by the Gender, Health & Justice Research Unit, University of Cape Town)*

## SPEAKER 2

### Joy Watson, Gender Researcher with the South African Parliament LESSONS FROM A DECADE OF LEGISLATION AND IMPLEMENTATION

Although there have been a number of important legislative developments over the past 10 years, including the DVA, the shortcomings of the state as evidenced by the many submissions to Parliament have confirmed the state has failed to protect women from abuse. In light of this, a 10 year reflection on the DVA is a poignant opportunity to discuss how the state can improve its responsibility towards women.

The table below illustrates domestic violence cases per region as reflected in the 2007/08 annual report of the Department of Justice and Constitutional Development:

TABLE1: NUMBER OF DOMESTIC VIOLENCE CASES PER REGION

REGION	APPLICATIONS	PROTECTION ORDERS	WARRANTS EXECUTED	CASES WITHDRAWN	CASES THAT GO TO TRIAL
E. Cape	20,653	6,861	516	1,360	3,226
Free State	9,233	3,596	357	908	3,989
Gauteng	44,000	22,688	3,406	5,508	14,833
KZN	27,836	12,530	862	4,080	9,904
Limpopo	11,326	6,210	267	700	3,429
Mpumalanga	11,574	5,433	335	1,710	2,981
North West	7,365	3,844	677	881	2,342
N. Cape	4,661	1,800k	198	410	2,433
W. Cape	30,699	17,148	1,987	3,231	4,169
<b>Total</b>	<b>167,347</b>	<b>80,110</b>	<b>8,623</b>	<b>18,788</b>	<b>47,306</b>

A total of 167 347 people<sup>1</sup> applied for protection orders in the period of reporting, although it is clear not all cases of DV are reported. The table reveals a gap between the number of applications made versus the number of protection orders issued, the number of warrants of arrest executed and the number of cases that proceed to trial. This gap could be explained by extracts from submissions made by women summarised below:

- **Negative experiences in court:** victims may withdraw a case due to a lack of appropriate court support and wanting to avoid the trauma associated with the court process.
- **Lack of adequate resources:** poor infrastructure and support services are available to the Family Courts and few prosecutors and magistrates that deal directly with domestic violence.
- **Poor treatment by clerks of the court, court officials and magistrates:** clerks of the court are the first point of contact for many complainants and in many cases make inappropriate and unsympathetic utterances.
- **Sentencing for murder of partner:** submissions note what appear to be inappropriately light sentences for men who murdered their partners and inappropriately heavy sentences for women murder their partner in the context of DV.
- **Access to after hours hearings:** an application for a protection order after hours only if the complainant suffers "undue hardship" if the matter is not heard. The process for determining whether or not undue hardship will be suffered is problematic.

In addition to the above police officers often do not update the DV register regularly and are not allocating the correct time code to domestic violence cases, classifying a crime as a "social crime" when it is in fact a "violent crime". The police have also been accused of being insensitive, not accurately communicating the victim's rights and failing to make provisions that victims receive information in their language of choice.

Recommendations to address the gaps in service delivery at the levels of the court, police, care and support are as follows:

- Assessment and where possible synergy of policy directives such as the Victim Empowerment Programme (VEP), the Victims' Charter, the Minimum Standards for Service Delivery and the Uniform Protocol on Victim Management as well as the Policy Framework and Strategy for Shelters for Victims of Domestic Violence

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1 The gender breakdown of these applications is not reflected in the Department's report, so it is not possible to speculate on the different categories of persons who lodged an application. It is further acknowledged that this figure would then include partners who apply for a protection order in retaliation for a protection order being issued against them.

- Adequate resource allocation to give effect to policy provisions
- Independent Complaints Directorate (ICD) should periodically assess compliance with related legislation by the SAPS to victims of gender-based violence
- More focused needed on the needs of secondary victims such as children

### **SPEAKER 3**

#### **Yasmin Bacus, Head of Department, Kwa-Zulu Natal Department of Community Safety and Liaison (KZN DCSL) Championing Safety: Domestic Violence Prevention Interventions by the KZN DCSL**

The KZN DCSL aims to monitor service delivery by police and promote good relations between police and communities. According to national statistics most crime is personal and domestic in nature. National targets include reduction of contact crime between 7-9% annually and while it appears that some provinces are meeting this target, questions have arose in regards to the police keeping crime figures down discouraging the opening of cases by complainants.

#### *Highlights of the work of KZN DCSL*

Some of the programmes designed to support victims within the KZN DCSL include “Khuzumhlola”<sup>2</sup> which works with vulnerable groups such as the elderly, widows and disabled persons. “Kuyoze Kubenini? (‘Until When?’) is a comic book depicting the effects of violence against women and children and the Women’s Safety Audit Project which has produced the Women’s Safety Audit Toolkit. The Safety Audit Project has also conducted awareness activities in Shayamoya where several women from disadvantaged backgrounds were murdered by a serial killer.

The support of Victim Friendly Services is also a key priority for the Department. Assessing and upgrading police stations as well as NGOs that work with victims, providing safes to ensure dockets are kept secure and the recruiting and training of volunteers are just some of the ways that the Department displays its commitment to victim empowerment. In addition to this, resource book with contact details of Victim Friendly Facilities, information on DV as well as the Victims’ Charter is currently in production. Police stations that excel in terms of service delivery receive service awards.

The Department has also facilitated the training of Amakhosi Traditional Leadership and Izidunas (assistants) in crime prevention, including domestic violence through the University of Zululand. Capacitating the communities to deal with DV is also key to sustainable social change and the Department, on a continuous basis, works with community policing forums (CPFs) to mobilise local communities in combating domestic violence and has 1200 volunteers to date. Collaboration with the South African Women’s Lawyers Association in KZN (SAWLA) has resulted in women in townships and rural areas receiving education on their rights. The Department’s Indaba for Men Programme encourages good fatherhood practices and positive roles for men and boys thereby also creating improved relations between men and women at home as well as in the working environment. Lack of resources are often cited as reasons for lack of the implementation of the DVA, however societal attitudes towards DV remains a major obstacle to gender transformation and the Department is committed to working towards attitudinal and behaviour change.

#### *Challenges associated with implementation of the DVA*

From the perspective of the KZNDCSL some of the challenges associated with the implementation of the DVA include:

- Interim protection order matters not heard quickly enough
- Service of Protection Order delays
- Failure by courts to emphasise maintenance provisions of orders and therefore failing to recognise the link between maintenance and violence
- Provisions relating to the removal of firearms from violent persons not adequately enforced
- Improvements needed in follow-up of protection orders
- Better explanations to clients about process involved such as provision for interim monetary relief from perpetrator
- Language and the need for jargon-free forms
- Failure of some police officers to open cases on DV

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2 This Zulu word translates to reprimanding or discouraging unacceptable behaviour.

## PLENARY DISCUSSION

### Utilisation of international instruments in the fight against DV

Whilst the CEDAW process may not always result in tangible and immediate difference to women's lives, it is a vehicle through which a dialogue of government accountability can foster. The manner in which abuse is argued in court needs to be interlaced with issues of race, class or HIV status as these categories may also be the bases for discrimination.

Civil society can engage with the CEDAW process by contributing to the shadow report that will reflect the experiences of civil society and in many cases, the real and lived experiences of many women in South Africa. Although the completion of a shadow report is a long and challenging process, it is imperative that the voices of civil society be heard on the progress of women's rights in South Africa. Although the second South Africa report to CEDAW was recently accepted by Parliament, there has been criticism and speculation on the accuracy of some areas of the report.

It is also possible for civil society to file urgent appeals to Special Rapporteur to investigate enquire into grave situations faced by women.

### Role of Local Government

At local government level many councillors are responsible for the health, welfare and safety of their communities. With DV directly associated to health and safety councillors should prioritise DV in their work and budget accordingly. Yet many councillors fail to place DV onto their agendas. In the run up to the 2010 World Cup, the issue of trafficking needs to be dealt with at local government level where specific legislation should be promulgated. Despite various resolutions in the past on the issue of trafficking, little has been done in particular on the issue of legislation. Civil society groups can play a role in lobbying government to focus attention more concertedly on the trafficking of women and children.

### Service delivery

Many police stations located in areas according to apartheid demarcation patterns although it is clear they are not in relation to newer communities. Recent political discussions have agreed that there needs to be a rationalisation of service delivery throughout the country by assessing the needs of different communities and establishing corresponding location of police stations. In addition to this, other structures that have attempted to move beyond police stations such as family friendly facilities and multi-purpose community centres have been introduced.

*Beverley\* obtained a provisional protection order against her boyfriend. He lived with her and her two daughters. As part of the order, he was ordered to leave the common home (in other words, evicted). He abuses alcohol and would hit her in front of her children. She has on many occasions asked him to move out but he refused. After he was served with the provisional protection order he willingly left the premises without saying a word.*

*(Case study from the Saartjie Baartman Centre for Women and Children)*

*\* - name changed*



## PLENARY SESSION 2

**Theme:** Services for women in domestic violence situations

**Facilitator:** Delphine Serumaga

### SPEAKER 1

Lisa Vetten, Francois van Jaarsveld, Phineas Riba & Lufuno Mokwena, Tshwaranang Legal Advocacy Centre to End Violence Against Women (TLAC)

**EXPLORING WOMEN'S USE OF SERVICES IN THE AFTERMATH OF DOMESTIC VIOLENCE: A CASE STUDY OF ACORNHOEK, MPUMALANGA**

In order to understand the needs of abused women in the area of Acornhoek, Mpumalanga, a region where many of their clients reside, the TLAC conducted research to investigate how abused women made use of services. Key questions which informed the research were:

- What is the reported extent of domestic violence in the area?
- Which women use what services when?
- What do these findings imply for the provision of services addressing domestic violence in the area?

Various methods of collecting data were employed. Analysing outpatient records to determine which were related to DV revealed 204 cases, investigation of SAPS DV register, and dockets highlighted 416 cases, and looking through applications for protection orders at 3 courts serving the area revealed 322 cases of DV. Therefore a total of 942 cases of DV were uncovered using these 3 sources of information from the period January 1st 2006 to July 31st 2007. In addition to this, the study also reviewed 232 closed TLAC client records from Acornhoek and discovered 54 specifically DV-related cases for the period March 1st 2007 to August 31st 2008.

#### *Research findings*

- The study found only 63 (6.7%) of the 942, only would become official police charges. This suggests that investigating police data and statistics in an attempt to gain a clearer picture of DV is arguably a mere snapshot of the reality of the problem.
- Only very few of the 942 abused women used all three services. Only 3 women reported the crime to the police, sought assistance at the hospital and obtained a protection order. This finding suggests that intersectoral collaboration between services is poor.
- The ages of women who sought help in the different services varied. Women who used the courts were older than women who used hospital services. The majority of younger women in the study approached the police station. This may suggest that women turn to the courts when they get older and perhaps more confident but may also indicate that women use courts as a last resort.
- Sixty seven percent of women who applied for protection order reported multiple incidents of violence, suggesting that many women lived with violence for some time before applying for a protection order. Although 26 out of 204 women who were admitted to hospital had been treated before, this did not appear indicate to health care professionals that these patients were being abused. In 61% of the cases, health care professionals failed to enquire about or record the identity of the perpetrator.
- The majority of employed women in the study made use of court services whereas the majority of unemployed women approached the TLAC for mediation. This strongly suggests that financially dependency may be a factor in a woman's decision to leave an abusive relationship. Thirty five percent of women who used the courts were separated from their partners suggesting that abuse continues even after separation.
- Women readily reported emotional and sexual abuse to the courts and to TLAC but appeared not to disclose this form of abuse at police stations.
- In many cases hospital staff responded to physically abused women by administering painkillers (95% of cases). Only 6.4% were referred to the police, 2.5% referred to a social worker and a mere 0.5% referred to a counselling psychiatric nurse.

#### *Key observations*

The absence of a health policy addressing DV results in a fragmented service for victims and a poor integrated response. The statistic reveals that there continues to be arguably, incorrect assumptions about what type of services women need and access at different points in their lives and why.

In attempting to reduce their statistics police officers often discourage women from laying charges and encourage them to seek protection orders through the courts or refer them for counselling. Cases referred to the TLAC by the police were viewed as cases the police would rather not engage with. Research at the police station also revealed Poor record keeping as evidenced by the police's DV register not updated for 6 months prior to the study. Most importantly the findings show that DV is repetitive and therefore suggests a more intense focus on dealing with long term trauma experienced by abused women.

## **SPEAKER 2**

### **Fatima Ismail & Charmaine Morris, Saartjie Baartman Centre for Women and Children GAINS AND CHALLENGES OF THE DOMESTIC VIOLENCE ACT AS EXPERIENCED BY THE SAARTJIE BAARTMAN CENTRE FOR WOMEN AND CHILDREN (SBCWC)**

The Saartjie Baartman Centre for Women & Children (SBCWC), a partnership between government and civil society, was established in 1999 as the first one-stop centre partnership in South Africa. The SBCWC works in partnership with organisations on ending violence against women & children by providing among other services, 24hr emergency shelter, short & medium-term residential care and childcare services. In addition to assisting women to deal with the trauma of abuse, SBCWC also aims to empower women financially as a sustainable option to staying in an abusive situation. The organisation's legal project offers legal advice & assistance to survivors of gender-based violence and in 2008 assisted 1096 women.

#### *Successes and Challenges*

The Centre has recorded cases where protection orders have made a tangible and positive difference in women's lives. Clients have testified to receiving quality services from the police and being referred to shelters, in addition to weapons being confiscated and perpetrators being evicted from residences. However, there have also been instances whereby it is evident that protection orders do not also assist clients and where perpetrators blatantly violate protection orders and inflict further abuse upon victims.

The lack of effective administration at the level of the courts is also significant. In some courts there is no or inefficient computing systems, files and documents are frequently lost, and the number of cases to be heard are limited, requiring clients to arrive to court early. Some respondents have great difficulty in convincing the court that their applications for interim protection orders are urgent. In other cases victims are being granted a notice to come to court rather than an interim protection order despite having evidence of being abused. In addition to this and in violation of the DVA at some police officers victims are encouraged to seek a protection order rather than open a case.

#### *Recommendations*

- Training for all officials dealing with complaints of domestic violence
- Accurate record-keeping system to prevent reciprocal/duplicate court orders
- Legible protection orders by magistrates
- Court orders should include compulsory outpatient rehabilitation for perpetrator
- Establishment of a specialised unit within SAPS

## **SPEAKER 3**

### **Linda Fugard, Sisters Inc IMPLEMENTATION OF THE DOMESTIC VIOLENCE ACT OVER THE PAST 10 YEARS: ANALYSIS AND REFLECTION – SERVICE PROVISION FOR WOMEN SURVIVORS OF DOMESTIC VIOLENCE: SHELTERS. WHAT PART DO THEY PLAY?**

In the past shelters provided short term solutions to the problem of abuse with little more than basic amenities. Whilst many shelters still provide this type of rudimentary service, many now offers opportunities for women to transform their live. Currently shelters can offer legal advice and must abide by all aspects of the Victims Charter. In addition to this shelters are being held accountable for implementing and upholding the Minimum Standards for Shelters. Although shelters play an important role in empowering women to make choices that positively affect themselves and their families, shelters are mentioned casually in the DVA and this needs to be addressed.

Networking in the shelter movement is also important. Shelters in the Western Cape network routinely share information, expertise and challenges faced. Together they aim to changed mindsets on the notion of a shelter and its potential. This has been strengthened by the National Shelter Movement of South Africa which aims to see that shelters are always on the agenda where gender issues are concerned. In this way shelters can speak with one voice and strengthen networking forums in all Provinces.

Sisters Inc. is one shelter which has facilitated the empowerment of many survivors of violence. Below is one woman's story.

#### *ONE WOMAN'S JOURNEY*

*After walking out of a 10 year abusive relationship a woman sought help at a counselling centre. She was informed that she had a right to lay a charge at the police station and get a protection order. The counselling centre presented the woman with a number of safety options, including staying at a shelter. She arrived with her children at the shelter, was interviewed by a social worker interviewed her who accepted her and her children and showed them to a warm, inviting room. They were given toiletry bags, towels, clothes, a soft cuddly toy for each child, a hot bath, warm meal and a warm bed. The next day the woman attended the local day hospital. At the shelter she made friends, realising that she was not alone and not the only person who had been abused. Her children were able to register at local schools and she learned more about her rights and that DV was a crime. She was also given information about the Victims Charter. She was assisted with applying for a protection order as well as child care support grants. While at the shelter she attended various groups at the shelter such as anger management, job preparedness and self defence and attended daily skills training. She realised that she was starting to heal physically, emotionally and spiritually. She chose to start divorce proceedings and with an up to date C.V. she found employment. She felt empowered and could not believe the person who looked back at her from the mirror – a strong, upright, bold, happy, confident and free woman. She was ready to go back into the community and tell other women help is available.*

#### **SPEAKER 4**

#### **V. Arendse, Z. Joseph & W. Wichman, Trauma Centre for Survivors of Violence and Torture, Cape Town A PSYCHOSOCIAL INTERVENTION WITH CHILDREN AFFECTED BY DOMESTIC VIOLENCE**

The Trauma Centre for survivors of violence and torture is a Cape Town based non-governmental human rights organisation which promotes and inspires the healing of survivors of violence and torture. Although DV is prevalent in South Africa society and a significant amount of research is conducted to gain a clearer understanding of its nature and impact, work on children affected by domestic violence appears to be lacking. Children are often neglected in discussions around DV although when children display behaviour problems in many cases they are witnesses to, or victims of DV. Children are often believed to be resistant and adaptable to change and while this may be true, in cases of traumatized children help is often required for resistance and adaptability to emerge. In light of this a partnership was formed between the Trauma Centre, the Department of Social Development and the shelter at the Sarah Baartman Centre for Women and Children.

#### *Components of the programme*

The Children and Violence Programme had a 2-pronged approach – it aimed to build the parenting skills of mothers who came to the shelter as well as resilience of children. The programme was modelled on the theory that behaviour is learned and children model the behaviour they see. Therefore, the programme was designed to present alternative models of behaviour that would impact children's attitudes about violence, disclose their emotional responses to the violence and allow them to develop alternative strategies for coping with violence.

The overall objective of the project was to assist children to increase resilience, emotional control and self awareness. The outcomes were to understand self-esteem, establish a basic vocabulary of feelings, identify difficult emotions, develop strategies to deal with anger and problems and learn the art of conflict resolution.

After a needs-assessment was completed, the group, comprising of children 7-12 years of age met for 90 minutes once a week for 12 weeks. With predictability being paramount in a children's group, the children met in the same venue and kept to a fairly structured programme. The group remained a closed one in order to increase comfort and trust. A code of conduct was drafted by the children and the meeting began and ended with the same rituals. Although initially the children felt quite unsafe and reluctant to talk about their feelings they gradually opened up to the themes of the programme. The programme was regularly monitored and evaluated and children were regularly assessed.

#### *Findings and lessons learned*

- With the nature of a shelter where children may not be long term, there were incidences of children having to leave the group. This impacted upon the closeness and energy of the group
- It was discovered that the stigma of living in a shelter was significant and negative for many children
- Better engagement with parents such a parallel parenting group would enhance the results of the children's programme
- Conflicts outside the group in the shelter environment impacted the group during sessions

## PLENARY DISCUSSION

### Training

Despite extensive training of relevant professionals, service delivery to victims of violence remains inadequate. Although employees may be sufficiently trained they still choose to offer sub-standard service or violate legislation. In these cases more training is not the solution but rather a policy directive should be in place in order to enact disciplinary proceedings where necessary. It is also imperative that training be given to employees who will use it in their daily work and for whom it will benefit. This should be carefully and regularly monitored.

### Access to SAPS statistics

While organisations like the TLAC is based at a police station and can have access to statistics, for many organisations gaining access to police data is a daunting challenge. However, organisations are likely to succeed if they are able to convince the police that the collation of statistics is in the best interest of the police and the overall aim of the process is to bring statistics on violence down. It is also important to be transparent about the process, giving the police the first opportunity to view the findings of any research they may have participated in. Developing good relationships with station commanders is also key, although engaging with lower ranking police officers may present challenges if the research may uncover evidence of corruption and other unlawful activities. In light of this they may be suspicious of external research work and reluctant to be transparent.

### Conflicting statistics on DV

Gaining a clear picture of the extent of DV through statistics is almost impossible since the statistics released by SAPS and government departments is often in contradiction to those held by civil society and research institutions. The release of statistics will naturally have an impact on the direction and flow of funding for violence and with the introduction of victim empowerment forums there is a concern that women's unique experience of violence will be subsumed. With the plethora of different methods used to gather statistics in the court, hospitals and police stations, coupled with the fact that, fundamentally, there is little capacity at government level to monitoring of cases, the challenge remains. Statistics are designed to raise more questions and generate debate. By delving into broader qualitative issues in regards to procedures and processes a tool for advocacy can emerge.

*You can make a mistake but you are remorseful afterwards and wish that it had not been like that. My wife is actually stubborn. Like when you talk to her she will speak louder, louder. She will force you to do something you did not want to do.*

*(Case study from research paper "Exploring men's subjective accounts of intimate partner violence" by CSV)*



## PLENARY SESSION 3

**Theme:** Domestic Violence: From the Private to the Public through the Criminal Justice System

**Facilitator:** Wendy Isaacs

### SPEAKER 1

Lillian Artz, Director Gender, Health & Justice Research Unit, Faculty of Health Sciences University of Cape Town  
**VICTIM RETRACTION OR SYSTEM RELUCTANCE?: AN INVESTIGATION INTO THE ATTRITION OF DOMESTIC VIOLENCE CASES WITHIN THE CRIMINAL JUSTICE SYSTEM**

Attrition can be defined as the 'fall out' of cases from reporting an incident of violence to finalising a case. Attrition can usher in assumptions that women do not take the justice system seriously and/or are abusing the system. The study aimed to understand why women applied for protection orders but did not finalise cases. In order to do this the research needed to stay in analysed the conditions under which women withdraw protection orders as well as why women remain in abusive situations.

#### *Research findings*

The study interviewed 365 women in Khayelitsha, Bellville, Wynberg and Philippi who did not return to court to finalise their cases. The study found 83% of applicants for protection orders were female and 14% male. In the majority of cases of male applicants, men were found to be using the protection order as retaliation to having been served a protection order by their female partner, questioning the notion of an increase in the number of abused men. Fifty two percent of the participants in the study had applied for protection order against a current intimate partner while 18% had taken out a protection order against a former intimate partner, suggesting that leaving an abusive relationship does not necessarily translate to a cessation of violence. The findings also reveal women suffer ongoing abuse. On average, respondent knew their abusive partner for 13 years and had experienced abuse for 4 of these years. One out of 10 women (12%) experiencing domestic violence for 10-20 years of her life. This suggests that rather than abuse the system women suffer abuse for extended periods before approaching the legal system.

**TABLE 2: WHY WOMEN DO NOT RETURN TO COURT**

Reason	Number	%
Abuse stopped	132	37%
Promised not to abuse again	77	21%
Less abusive	57	16%
Pleaded with victim not to return to court	25	7%
Told not to come back to court	12	3%
Family members got involved to resolve outside of court	39	11%
Economic impact	32	9%
Professional help	12	3%

In-depth analysis disclosed the following reasons for women not returning to court:

- Family crisis such as death or illness
- Work related problems
- Inability able to afford the sheriff's fees
- Fear of losing custody of children
- Fear of their abuser (one out of every 5 women was threatened with death by their abuser if they returned to court)
- Consistent threats such as threatening to destroy applicant's property, hurt the children or sexually abuse them in some way.

In attempting to understand why women do not leave abusive situations it is important to focus on the behaviour of the abuser rather than the seeming indecision of the victim. While much of the literature of this issue speaks about women's non-cooperation with the courts there is a need to discuss systemic non-cooperation or failure. The research has revealed that women utilise parts of the system according to their needs and use it in ways to renegotiate their safety and the safety of their children where necessary.

## **SPEAKER 2**

### **Marieta de Vos, Executive Director Mosaic Training, Service & Healing Centre Monitoring and Evaluation of Domestic Violence: a Methodology for Non-governmental Organizations**

There is a wealth of different methods and instruments of data collection on violence against women (VAW). Some of these include population-based surveys with a particular focus on VAW, demographic and health surveys (DHS) which are usually broad but contain a component on violence, crime surveys, research studies by universities and institutions as well as statistics and qualitative studies from civil society organisations. The quality of these studies cannot simply be taken for granted. For example validation studies of the DHS in 1998 found high levels of underreporting and the DHS 2003 did not include questions on VAW. In addition to this the CEDAW report of 2008 only contains DV incidents reported at police stations.

#### *Types of indicators needed*

There is a need for better, less complex indicators to report on progress. In regards to monitoring services for abused women, the number of shelters, advocacy projects and trained staff should be investigated. Indicators for prevention should analyse the percentage of public sector budget allocated to prevention. More qualitative indicators would include women's sense of safety & satisfaction with legal system, attitudes to VAW amongst a range of actors and the range and choice of services for women.

The report of the Special Rapporteur in 2008 highlighted the need to look at 3 types of indicators:

- Institutional – this involves the ratification of CEDAW and other international instruments as well as an action plan on VAW
- Process indicators – this relates to reporting rates, attrition rates, the number of shelters, helplines, one-stop centres and counselling services available
- Outcome indicators – this relates to levels of tolerance of VAW in society, rate of femicide and proportion of female population experiencing grave abuse

In assisting 20,000 to 25,000 applicants to obtain protection orders annually, Mosaic was able to collect data relating to the demographic of abused persons, types of abuse, court dates and referrals and special factors such as presence of weapons and drug and alcohol abuse. The organisation was then able to identify patterns of abuse and where it may be occurring. For example while 50% of applications for protection orders are made against partners or ex partner, the other 50% are made against others such as the sons of victims. If there are no or few applications in a particular area this indicates to Mosaic that rather than assume the absence of domestic violence, it suggests that communities are not aware of the DVA. Gathering data in this way gives an in-depth picture of violence within the home and relationship between victim and perpetrator. This type of data collection is not overly complicated and can be compared with national statistics from household surveys.

Priorities for monitoring and evaluation of DV should include:

- Need for agreed indicators to assess progress over time
- Increased gender analysis in research
- Increase capacity of NGOs and government departments to collect data
- Training of data collectors on issues of confidentiality and safety
- Analyse, interpret, plan and cost
- Disseminate data to expose magnitude of problem
- Ensuring topics on VAW is Included in DHS
- More impact studies needed on the effectiveness of services and treatment programmes

### **SPEAKER 3**

**Lorenzo Wakefield & Helène Combrinck, Community Law Centre, University of Western Cape**  
**THE DOMESTIC VIOLENCE ACT AND HIV/AIDS: AMEND, EXPAND OR INTERPRET?**

The DVA is largely silent on the issue of HIV and AIDS although the manner in which gender-based violence increases women's susceptibility to HIV is well established. A key question on this issue is where the definition of DV as specified in the Act is a broad enough to include HIV related behaviour as a form of DV. Due to the gap in legislation judgement on this is dependent upon the discretion of the magistrates in determining how to apply the DVA where HIV is involved and how best to offer protection to women vulnerable to HIV or living with HIV.

Harmful HIV-related behaviour can be understood as instances where an HIV positive person knowingly exposes his/her sexual partner to HIV, irrespective of whether transmission happens.

#### *Abused women's relationship with HIV*

Negotiating safe sex practices is difficult for many women, in particular abused women who are living HIV. Many often fearful violent repercussions if they disclose their HIV status. Access to healthcare is also difficult with women getting tested in secret, missing appointments and medication dosages and being beaten if discovered to be visiting healthcare practitioners.

#### *Protection within the legislation*

There is currently a debate about whether harmful HIV-related behaviour should become a 'new' criminal offence in South African law. However, intentional transmission through forced sex between partners will fall into DV definition of sexual abuse. Destroying medication, taking money away and any "other controlling behaviour" as contained in the Act will protect women who are particularly vulnerable as a result of HIV.

Section 7 of the DVA provides for the safety of the applicant stating that the court can impose conditions "reasonably necessary to protect and provide for the safety, health or well-being of the complainant". In cases where abusers refuse to go for HIV testing this is usually symptomatic of some aspect of coercion in the relationship. However, forcing a respondent to take a test and give results through a court application should be approached with caution since the respondent's right to privacy and the applicant's right to bodily integrity will be conflicting. Although ensuring an applicant's safety may mean instructing a respondent to use condoms, monitoring or enforceability is difficult. Still, this is not dissimilar to magistrates ordering respondents not to commit other types of offences. If he is found in violation of the order the applicant can return to court.

In conclusion, in order to interpret DVA appropriately in HIV-related matters it is essential for the courts to understand the underlying context of inequality. Whilst the DVA may be broad enough to accommodate cases of the HIV related behaviour and specific amendments may not be required it is important to bring such cases to court in order to test the boundaries of the DVA.

### **SPEAKER 4**

**Fiona Nicholson, Director Thohoyandou Victim Empowerment Centre**  
**THE ROLE OF THE VICTIM EMPOWERMENT PROGRAMME IN THE MONITORING & OVERSIGHT OF THE DOMESTIC VIOLENCE ACT AND VICTIM'S CHARTER**

Thohoyandou Victim Empowerment Centre constantly monitors and negotiates the interface between victims and people who are constitutionally mandated to deal with victims. The organisation monitors all cases of rape within the area, from the victim's experience at the police station to the court procedure.

#### *Challenges within the VEP structure*

The current structure of the Victim Empowerment Programme (VEP) is an important vehicle for healing and empowerment of victims. With the commitment of stakeholders and the buy-in of victims of violence the service it can be a successful model. However, some aspects of the structure are fundamentally flawed. At the provincial level the VEP is comprised mostly of government officials, social workers and some members of civil society. At this level meetings and engagement are limited. At district level civil society is believed to lead the VEP whilst in other districts the Department of Social Development has taken over the role of as convenor. In many cases poorly capacitated volunteers at police stations report to social workers and police officers. Some volunteers have not received trained on victims' rights and do display awareness of their primary mandate as providing victim support.

Despite the presence of the VEP victims continue to experience secondary victimisation such as rape cases being opened as common assault cases in order for police stations to keep rape statistics down.

The current location of the VEP may not be exhausting the potential of the structure. It remains clear that it should not be placed under the same service providers who are currently failing to provide the service.

## **SPEAKER 5**

### **Josefina Duran, Equipo Lationamericano de Justicia y Genero (Latin American Justice and Gender) ACCESS TO JUSTICE AND DOMESTIC VIOLENCE: THE CASE OF THE ARGENTINEAN SUPREME COURT**

In Argentina, a country where each of the 23 provinces has its own Constitution, local courts and legislation, domestic violence is defined as “family and social conflict, in which one party exerts power and domination over others, within the domestic social group.” This conflict can also occur within the home or in a family-like relationship where a person is a victim of physical or mental abuse. The legislation passed in 1994 refers to “family violence” rather than “domestic violence” in order to include other vulnerable groups such as the elderly and disabled that may be affected by the violence. Family violence is also extended beyond the borders of a domestic setting but include different types of familial relations.

#### *DV as a civil matter*

National and provincial legislation has opted to tackle the issue of DV on civil rather than criminal grounds (apart from cases where serious physical injuries and attempted murders) for the following reasons:

- Criminal law does not work as an effective deterrent
- The standards of proof of criminal proceedings are difficult to establish for some forms of violence (i.e. psychological violence)
- Women tend to be re-victimised during the criminal procedure
- Civil procedure for domestic violence cases provide the possibility of faster responses by the Courts
- Civil procedure enables solutions in line with urgent needs such as custody of children, eviction from family home etc

The number of complaints received for family violence in the city of Buenos Aires has steadily increased in the last 6 years from 2,720 to 4,419 in 2008. Sixty seven percent of the complainants are female and the majority are aged 31 to 50 years.

A majority barrier to the reduction of DV in Argentina is access to justice. In addition to physical access to courts and judicial proceedings which elude many victims, fair and quality judicial services are not always guaranteed. Underpinning this is the fact that many Argentineans are not aware of the human right to accessing justice.

#### *Provincial response to DV*

In 2008 the Supreme Court of Justice established the Domestic Violence Office. The goal of the Office, which operates 24 hours a day, 365 days a year, is to unify the criteria for registration of domestic violence cases and contribute to the development of prevention campaigns in an attempt to change the perception of domestic violence as a private problem.

Specifically the Office provides information on DV and possible courses of action; conducts medical, psychological or psychiatric examinations where necessary or monitors the activity of such services belonging to the Office; facilitates transfers of persons to seek assistance from service providers; and tracks cases filed with the Office.

While the Office has succeeded in making DV a public policy issue and increased the visibility of the issue, one of the challenges facing the Office in regards to having a significant impact on DV is the fact that lawyers of the Office cannot represent or give legal assistance to a victim of violence in court. It is hoped that other provinces may replicate the initiative set by the Office. In order for victims to access justice other social amenities need to be in place such as adequate housing, childcare services, free legal assistance and training. Such public policies at national and provincial level need to be designed and implemented. In addition this free legal assistance must be available, the judiciary and its institutions should be subject to routine critical review and a legal literacy campaign promoted country-wide.

## PLENARY DISCUSSION

### Domestic violence and HIV

It is important that while attempting to locate HIV and DV within broader responses to HIV, the criminalization of HIV positive persons or contracting of HIV does not occur. Rather than punitive intentions, looking at how the DVA could be used to legislate against HIV related behaviour is intended to be prohibitive in nature and protecting the rights and safety of vulnerable women.

### Qualitative research

There is a need for debate on the use of categories such as race, location and class when conducting research. Findings which conclude or predict outcomes on DV according to these categories have been met with criticism and some form of standardisation is required. In addition to this more qualitative findings that highlight systemic problems on women's access to justice is needed.

### Funding

Funding allocated to victim empowerment unfortunately does not relate to the services it is intended to provide. Provinces are given fairly equal funding when in fact they vary in size and magnitude of the problem. Although funding for CSO remains a challenge, donors are more likely to engage with a united civil society speaking with one voice. Although there has been a shift in global funding whereby government is receiving much of the funding and priorities by civil society must be made in line with national agendas, this presents an opportunity to monitor the government by looking at how much funding was directed to various services dealing with abuse.

### Challenges facing rural women

There exist different perceptions about the extent to which rural women are empowered. Some studies have suggested that while there are fewer resources in rural areas, communities gravitate to each other and strategise to deal with an issue with remarkable effect. Other anecdotal information suggests that rural women are socialised to feel disempowered. Organisations such as Mosaic, while they are not well resourced to train communities in rural areas are able to train to other organisations that work in rural areas. Research institutions conducting research in rural areas can also use community-based organisations to assist them in data collection.

### Volunteerism

The use of volunteers within the VEP is not an ideal situation and has been accused of being hypocritical. However, certain organisations such as Thoyo aim to pay a stipend to a volunteer which is equivalent to the salary of a domestic worker. The concept of volunteerism that exists in the North does not necessarily exist in Southern Africa. In some cases retired social workers or nurses can volunteer their services.



## PLENARY SESSION 4

**Theme:** Working with perpetrators: a real alternative to end domestic violence?

**Facilitator:** Nditsheni Maanda

### SPEAKER 1

**Marcel Londt, Lecturer in the Department of Social Work, The University of the Western Cape**  
**'ONCE THE HITTING STOPS' MYTHS ABOUT BATTERER INTERVENTION PROGRAMS**

The Men Stopping Violence Programme began approximately 15 years ago. Working with abusers who attend a 16 week group session have revealed that while men can alter violent behaviour, the absence of physical abuse is often replaced by other forms of control.

The programme was recently evaluated with the participation of 21 couples who had completed the programme between February 2007 and September 2008. The study sought to determine if abusive behaviour had changed after group counselling, in ways it had changed and if the rationales for becoming abusive had changed. Couples were also to fill in questionnaire prior to, during and on the completion the programme.

#### *Findings of programme evaluation*

According to the findings approximately 47% of respondents stated that verbal or emotional abuse still occurred in the relationship even though the physical abuse had ceased. Fourteen percent stated their partners were no longer abusive and the same percentage testified to their being no change after counselling in regards to the abuse. A small percentage stated the abuse had gotten worse since intervention.

There appeared to be little change on the reasons for abuse before and after counselling. Where the abuse remained abusers still asserted that losing one's temper, getting drunk, or the female partner "provoking" him triggered abusive behaviour. Whereas abusive partners stated before the counselling that their partners needed to be "taught a lesson", this appeared to have been reduced significantly after the counselling. The majority of men claimed for have stopped the abuse in order to save themselves and their families. Others stated that alcohol and drugs were no longer part of their lives. No men spoke of protection orders or family influences as deterrents to abusive behaviour. Partners of abusive men have testified to the change in behaviour but 3 out of 21 admit to still feeling unsafe

In conclusion while through batterer intervention programs cessation and reduction of violent behaviour can be achieved through, in many cases abusive men do not stop externalizing blame for their violence. Hence group-based intervention alone is not an adequate intervention but continuous support when the programme is completed is also necessary.

### SPEAKER 2

**Vanessa C.T. Padayachee, National Manager Research and Programme Design, NICRO**  
**CHANGING THE LENS ON IPV: LESSONS FROM WORKING WITH VICTIMS/SURVIVORS AND PERPETRATORS OF INTIMATE PARTNER VIOLENCE**

Working with perpetrators of violence is now part of many programmes across the globe and emerged as a component from working with female victims of violence. In many instance women indicated they wanted mediation and the violence to stop rather than leaving the relationship completely. It was also recognised that holistic results cannot come through working with victims only and working with perpetrators must be understood to be an attempt to attain a primary goal which is to protect victims (women and children) and communities. This should therefore not be seen in competition for resources for dealing with female victims of IPV. Although the gendered nature of intimate partner violence (IPV) results in more female victims being abused at hands of male partners, men have also been victims of domestic violence.

#### *Characteristics of abusers*

Although there is no one theory to explain why men become violent there may be some psychological characteristics that predetermine men to violence such as fear of intimacy and extreme jealousy, while anxious or preoccupied attachments are characterised by obsessive thoughts concerning the partner. In addition to this the presence of drugs and alcohol are believed to be connected to incidences are violence although a casual relationship has not been definitely established. The majority of perpetrators have grown up witnessing violence at home. Lack of economic resources and opportunities, racial discrimination and other forms of oppression can also play a role in triggering violence.

### *Working with perpetrators*

Whilst there is little real possibility of rehabilitation in prisons, it is important to note that not all perpetrators will be rehabilitated. Risk assessments need to be carried out to assess which perpetrators can benefit from non-custodial programmes. Punitive actions do not guarantee behaviour change and research has revealed that group work, as opposed to family intervention where sharing of blame may seep in, is the most effective approach to working with abusers.

In order to work effectively with male perpetrators of violence, men need to be confronted about the violence they express on different levels. Sexist attitudes and the range of controlling behaviours they employ towards women must be understood. Men must also be given non-violent skills and tools to restructure and sustain their behaviour and replace abusive tendencies.

The Nicro programme encourages participants to become accountable to those they have hurt and accept responsibility for the impact of their actions on their partners and others. The programme is intended to increase self-awareness and self-esteem and ensures that women's reality and experiences are always part of the group content. The indicators for behaviour change include degree of insight and internalization, acceptance of liability and responsibility, level of interaction with group members, among others. Nicro aims to work with families for 2 years.

Some of the lessons learned to date have been:

- Current strategies not working optimally to reduce IPV; there is a need for more organizations to focus on a holistic approach that includes working with perpetrators
- Substance abuse is a significant factor impact upon IPV and cannot be solely within the offender programme
- Participants need to be assessed properly since safety planning is essential.
- With the realities of poverty, unemployment and dysfunctional communities long term mental health-psychological support may be needed to after programme is completed
- Lack of adequate partnerships-among civil society, among government, and between civil society and government

*Susan had been severely physically abused in the past. The perpetrator would beat her in front of her minor children who could tell of each incident that happened. He has threatened her with a knife and told her that he will kill her. She was very afraid of him. She brought an application for a protection order. Although Susan had argued that she would suffer undue hardship if a protection order were not issued immediately the court refused to grant a provisional protection order and instead, issued the respondent with a notice to come to court on the return date.*

*(Case study from the Saartjie Baartman Centre for Women and Children)*

### **SPEAKER 3**

**Collet Ngwane, Researcher, CSVR and Malose Langa, Lecturer, School of Community and Human Development at the University of the Witwatersrand/ Community Counselling Psychologist, CSVR**  
**EXPLORING MEN'S SUBJECTIVE ACCOUNTS OF INTIMATE PARTNER VIOLENCE**

In the past women's abuse constructed as a women's problem. Now there is a growing interest on male's account of their violent behaviour in IPV with an overall goal to end oppression for all women. The study involving 6 black African men, aged 27-50 from working class backgrounds, aimed to better understand why men commit violent crimes against women. Individual and in-depth interviews were conducted with each man. The responses were analyzed by critical discourse analysis and discourses around patriarchy.

#### *Findings*

The following reveals some of the reasons men claimed to have committed IPV. The responses are characterised by victim blame and excuses of uncontrolled behaviours.

- The participants felt threatened by women rights culture prevalent in South Africa and were becoming violent as a result.
- They blamed the victims' behaviour and personality for their violent behaviours and consistently tried to justify and deny actions.
- They argued that they loss control, were possessed by uncontrollable anger and highlighted the manner in which culture supported their feelings of superiority.

- The study revealed feelings of masculinity in crisis with participants threatened by independent women. As a result they claimed to want to control women, making them dependent.
- The fear of prison and police was well articulated.
- Some participants showed willingness to change after going to restorative justice centre and speaking to elders while other stated they had achieved some semblance of peace after intervention.

The study's conclusion centred around men's ability and desire for change, arguing that more research should be conducted of men's perception of their violent behaviour. More work involving men as perpetrators and men's organisations should also be encouraged.

## **SPEAKER 4**

**Ansa Verster, Restorative Justice Centre**

### **IS THERE A PLACE FOR RESTORATIVE JUSTICE IN RESPONDING TO DOMESTIC VIOLENCE?**

Restorative Justice (RJ) emphasizes the repairing of the harm caused by criminal behavior and the changing of offender's future behaviour. It is often accomplished through inclusive and cooperative processes. With the complex dynamics of relationships, in particular violent relationships, RJ aims to address the needs of both parties. Violent incidents may involve a cycle of abusive behaviours and at times the line between abuser and abused becomes blurred. While RJ cannot replace the current justice system there is nonetheless a paradigm shift where there is a balance between punitive justice and RJ and both offender and victim work together for a resolution to the conflict. RJ can be understood as a return to traditional or ancient ways of restoring justice. Because of the existence of traditional practices in South Africa, RJ has been welcomed in various arenas.

Whilst the DVA has afforded protection to many victims and is an indication of the seriousness of DV, it does not assist in or encourage harmony and peace to return to violent relationships. In some cases protection orders and criminal prosecution have caused more harm than expected healing. Victims have been known to, upon consideration of the case, realise the economic implications of the violent partner incarcerated and sabotage the finalisation of the case. The Act criminalises the behaviour of the abuser but offers little help towards behaviour change.

In many cases although cases of abuse are dealt with through the legal system, many victims request mediation in order to restore the relationship. Referring cases to restorative justice processes should be viewed as creating additional and more nuanced responses.

#### *Why is RJ suitable for dealing with DV*

- It provides a safe environment for victims, giving them a voice and space to express their needs and be part of the resolution
- Repairs relationships damaged by the crime by working with both parties who arrive at a consensus on how best to respond to it
- Denounces criminal behavior as unacceptable thereby reaffirming community values
- Encourages "responsibility taking" by all concerned parties, particularly offenders
- Contributes to developing the person's positive character rather than making him a convict.
- Reduces recidivism by encouraging change in individual offenders and facilitating their integration into the community.

#### *The Restorative Justice Procedure*

Prosecutors screens and identifies potential cases, however the willingness and consent of both parties to engage is mandatory for the process to commence. Interviews take place with victims, offenders and their support systems with individual sessions conducted initially. Whilst the offender is encouraged to accept responsibility for his actions, both parties are encouraged to see the abuse as problems within the relationship and not necessarily to attest blame. Both are supported to be non judgmental and empathetic. The facilitator assists in formulating a suitable plan and where necessary referrals to psychologists are made.

The RJ social worker monitors the case and submits progress reports. If there is evidence of progress and the parties agree, there is a request to withdraw case from court.

## PLENARY DISCUSSION

### The benefits and challenges of Restorative Justice

While RJ is critical and an approach to healing relationships, gender-based violence expresses a power inequality and a non-level playing field. If this is not recognised as a core issue, patriarchy becomes entrenched. In order for the healing process to begin offenders are encouraged to take responsibility for their violent behaviour from the onset. Shared sessions begin only when the victim consents. Offenders are usually sent to psychiatrists or for anger management. Cases involving severe forms of abuse and oppression are not referred to RJ by the prosecutors.

Although RJ has been criticised for not understand gender-based violence within a feminist framework and almost dignifying violent behaviour, it is committed to reducing the violent experiences of women and are not lenient on perpetrators. In many cases offenders would not approach organisations for help with abusive behaviour and being referred by the court may present an opportunity for change. Although there is a place for RJ it cannot function as a stand alone option. All cases cannot be referred for mediation and counselling. Training in risk assessments are therefore critical to ensure women's safety is not compromised.

### Offender programmes

In working with perpetrators in group sessions there is usually co-facilitation by a male and female. This is purposely presented as a model to the men in the group for positive interaction between a man and woman. In order for the work to be effective, accountability guidelines and minimum standards are necessary. Perpetrators are also required to pay for counselling in several ways. In many cases there is a sliding scale and community service can replace cash payments. Payments to victims' services are also possible. At the Restorative Justice Centre many perpetrators are severely financially disadvantaged and are not forced to pay.



## PLENARY SESSION 5

**Theme:** Beyond responses: effecting the socio-cultural changes needed to prevent domestic violence

**Facilitator:** Angelica Pino

### SPEAKER 1

Anuradha Mohanty, People's Cultural Centre, Orissa, India

#### CAMPAIGNING TO END DOMESTIC VIOLENCE IN INDIA: CHALLENGES AND GAINS

The "We Can" campaign is now running successfully in Japan, Kenya and Latin America. It was launched in 2004 in South Asia in response to the magnitude of the challenge of gender-based violence. In a nation-wide survey in India, nearly 50% of women reported at least one incident of physical or psychological violence in their lifetime. In addition to India, Bangladesh and Sri Lanka also struggle with DV.

#### *Nature of the campaign*

"We Can Orissa" is a platform of NGO's, Corporate, Activists, Celebrities, media persons and people interested in social change. The campaign aims to build alliances with government and use all communication channels to effect change. Although the campaign in Orissa was launched with a group of 5 persons, it now functions largely as popular movement due to the recruitment and commitment of over 200,000 change makers. Change makers are essentially social agents committed to eradicating violence from society. Each change maker attempts to motivate 2 other change makers and create awareness within their individual institutions. Change makers have been known to stand up for victims and stand up to police and perpetrators. Due to the different categories of change makers, different communication strategies have been developed.

Gradually the campaign increased in visibility and with the promulgation of the Domestic Violence Act in 2005, the campaign had the potential for even greater impact. With Orissa having a designated police officer person responsible for women and children issues, the police academy receiving training on DV, the campaign is set to gain further momentum.

However, the campaign faces challenges mainly in the normalisation of violence against women in society. The formulation and implementation of gender-sensitive policies is still a long way off at a State level as well as harnessing local, state, national and international efforts.

### SPEAKER 2

Sithokozile N. Thabethe, The Zimbabwe Women Lawyers Association

#### TRADITIONAL LEADERS AND THE IMPLEMENTATION OF THE DOMESTIC VIOLENCE ACT IN ZIMBABWE

Zimbabwe operates a dual legal system; Roman Dutch law works alongside customary law, although the latter does not apply in criminal cases but rather civil cases and at community level. The country is afflicted with high levels of gender-based violence compounded by political violence. Amid much criticism from religious and cultural quarters the Domestic Violence Act was passed in 2007. Although aspects of the Act are flawed and resources for its implementation are inadequate, it was largely welcomed by gender activists.

#### *Traditional leaders as a powerful sector*

Traditional leaders are bestowed their identity at birth and therefore may not hold any formal legal training. They are holders of communal land, exercise judicial authority and adjudicate matters in customary matter applying customary law. In addition to this they can also be members of parliament; 18 traditional leaders are now part of the Senate.

Chiefs and headmen are only allowed to adjudicate over cases referring to psychological and economic abuse. According to regulations, chiefs and headmen area can also serve as counsellors to victims. Due to the accessibility and availability of chiefs and headmen to communities, their judicial authority appears justified to many. The procedures at the Chief's court are also less complex and vernacular language is used. It is also believed that victims are less intimidated due to the familiarity of the atmosphere and people.

#### *Challenges*

There are many challenges associated with expecting traditional leaders to address issues of DV without partiality.

- Due to the lack of separation of powers chiefs enjoy judicial authority as well as legislative authority resulting in lack of clarity about who monitors their activities and performance.
- The impartiality of the chief's courts is compromised with the chiefs being recipients of government favours such as farms and vehicles. In some instance a woman's case is influenced by any political alliances she may have/had.
- Chiefs are gate keepers of culture and tradition. Although virginity testing is accepting as a violation of human rights at least one chief has sanctioned the practice and presented certificates to the virgins. Chiefs are also known to sanction child marriages and in some cases are even married to minors. The belief that giving a female child to the family of a murdered person in order to prevent further calamities in the family is widespread in rural communities and efforts to stop the practice have been met with condemnation.
- Although familiarity in the court can be beneficial and less intimidating for the victim, chiefs also use the closeness of the community to express opinions and make judgements before arguments have been presented.
- Chiefs have also been accused of DV.
- Chiefs have exceeded justification in some cases of statutory rape and rape and allowed perpetrators to pay lobola and marry the victim.
- The system is patriarchal and naturally resistant to information on gender sensitivity. Therefore chiefs are ill-equipped to deal with cases that are fundamentally about gendered power inequalities.

*Rosie obtained a provisional protection order against her abusive ex-boyfriend. She asked the police to serve the order on him. Because he lived in an informal settlement and the police didn't know where to find the address, they asked her to go with them to show them where his house was. Rosie accompanied the two police officials to her ex-boyfriend's house. No-one seemed to be at home. The two police officials then instructed Rosie to go to one of the neighbours to ask where her ex-boyfriend was. While she was busy with this, the two members drove away, leaving her stranded in an unfamiliar area without any means of transport back home.*

*(Case study from the Saartjie Baartman Centre for Women and Children)*

### **SPEAKER 3**

**Ms Nditsheni Maanda, Outreach Manager Nisaa Institute for Women's Development**

#### **TEN YEARS OF THE DOMESTIC VIOLENCE ACT: PUBLIC AWARENESS AND EDUCATION CAMPAIGNS ON DOMESTIC VIOLENCE**

Women continue to experience secondary victimisation at the hands of public service providers. Places designed to be the protector of human rights such as police services and courts are ironically, where some rights violations occur. Certain organisations have a duty and responsibility according to the law to implement the DVA. Despite a decade of the DVA and many awareness campaigns on DV, victims of violence, particularly those experiencing emotional and financial abuse are still being asked to explain the nature of their abuse by clerks of the court.

Awareness campaigns need to work alongside training programmes targeted at officials of the court, police and health services. In addition to this, education on women's rights including gender-based violence should form part of the study curriculum for these providers. Government departments should also be made aware when their employee violate or display ignorance for legislation. Better monitoring and evaluation mechanisms also need to be put into place.

### **SPEAKER 4**

**Jeffrey Monakisi, Engender Health, Men as Partners Programme**

#### **GENDER BASED VIOLENCE IN A MASCULINE SOCIETY**

Many programmes on violence against women work directly with victims on awareness of rights and legal recourses. Few are designed to work with perpetrators. The Men as Partners (MAP) works with men as social agents and advocates on legislation such as the DVA. With masculine behaviour often used to create further power inequalities, there is speculation about whether male behaviour can change. However, MAP's work in several parts of the country has highlighted changes in male attitudes, although behavioural change is a long term commitment and in many cases difficult to measure.

Working with men should be carried out in the context of women's liberation and men's group should not attempt to lead or control the movement. Collaborating with women's groups is key in this regard.

Some individuals and institutions still view DV as a private issue and not a public policy one. Victims are still blamed for the abuse they experience and indigenous knowledge still has a distinctly male bias. Defining and implementing a tool for measuring behaviour change is therefore needed. Engagement with schools to socialise and conscientise young boys is also not gaining sufficient momentum.

## PLENARY DISCUSSION

### Training and awareness

The challenges faced in implementing the DVA should, among other things, encourage a refocus on the right type of training required. The Nisaa Institute for Women's Development has begun the campaign "Court Support" which provides training for officials on legislation and policy. The second stage of this training would involve prosecutors. At certain courts on certain days there is successful implementation of the Act and quality service is provided to applicants. This should be built upon and the systemic problems identified and tackled.

### Working with men

Organisations that work with men are receiving an increasing number of statistics on abuse, in particular economic abuse, experienced by men. Due to the fact that there are few avenues for abused men to exploit and they rarely admit to being abuse, they often retaliate. MAPs have in the past collaborated with the Forum for the Empowerment of Women and OUT LGBT on issues involving same sex relationship. MAP also believes that media images and advertisement perpetrate harmful masculine behaviours. They are currently working with the PSL and soccer players to be more positive role models on issues of alcohol use and gender-based violence.

### Learning from India and Zimbabwe

Although women in India traditionally remain in violent relationships and are not very financially independent, the "We Can" campaign has had significant success. The campaign is essentially several campaigns combined, involving different role players. Very young change makers having special kits designed for them to take to school.

The intersection between tradition and modernity in Zimbabwe is fundamentally rooted in colonialism and patriarchy. As a result of this and with the political dispensation in the last decade, social movements have had little access to chiefs. Spaces for NGOs to operate are increasingly closed even during a humanitarian crisis. It is then important for CSO to re-strategise and redefine their role to decide where and how best to intervene. Changing mindsets and systems are long term objectives and strategies need to recognise and address the complexity of violence are needed.



## RECOMMENDATIONS AND WAY FORWARD

The conference agreed that the promulgation of the legislation, its successful implementation in certain circumstances and subsequent protection it afford women constitute a gain after 10 years. The availability of the Act in African languages in the Western Cape was to be applauded. In the area of services, the existence of a national shelter movement attests to the response capacity of civil society organisations to the need for safety places for women and children.

However, there are still clear weaknesses in the domestic violence prevention field, as well as in the implementation of the Act. There are still no proper budgetary allocations for the implementation of the Act; hence, the responses from the criminal justice system are still inadequate. In the area of services, once again the government response has not been forthcoming, as it does not support efficiently civil society work to prevent and respond to domestic violence. Cumbersome procedures render the access to funding from government very difficult.

After some deliberation the conference agreed on the following actions to increase the quality of implementation of the DVA, and the prevention of domestic violence:

### Increased collaboration between organisations

- More information and some degree of engagement with the Action for a Safe South Africa (ASSA) are needed, in order to develop more work around primary prevention of domestic violence. This initiative, spearheaded by Idasa, the International Marketing Council and the Council for Scientific and Industrial Research CSIR, has been able to gather the support of a wide range of civil society organisations. The motivation for the initiative states that the national imperative regarding crime and violence has historically been focused on fixing the Criminal Justice System (CJS), but there is a growing understanding that no matter how well the objective to fix the CJS is achieved, if the demand is not reduced, system improvements can never be sustained. The initiative poses that, in the long-term, a safe society, especially one currently ridden with violent crime, economic and social dysfunctions and inequalities, requires a concerted effort to reverse the negative impacts including sadness, loss, and anger and to support, educate and empower citizens, to grow the economy, to build a culture of peacefulness and to strengthen the institutions of the criminal justice system. The objectives of the project include: to inspire citizens to become part of the solution in eradicating crime and violence; to host a national conversation on how to mobilise the broader community in the creation of a safe South Africa; to create a vehicle through which practical activities and programmes can be directed; to provide institutional spaces for innovative qualitative, quantitative and technologically driven research; to enable the co-ordination of space for advocacy and lobbying; to understand the current victim empowerment initiatives and to fill the gaps that exist; to learn from other countries who have faced similar issues.
- CSVR will get in touch with ASSA, forward the conference report and make information available to civil society organisations (CSO), particularly on funding possibilities.
- The conference demonstrated that there are a lot of initiatives going on at different levels, but there is not enough networking and exchange of information. It would be useful to establish a database of organisations in each province with information on their fields of interest, and also create a space for posting of useful information and exchange of experiences.
- Following up on the point above, there is a need to identify strategic areas in which different organisations work well, and try to form partnerships to maximise the use of resources and the impact of interventions. Many interventions mentioned during the conference proceedings could become good practice models and could be scaled-up.
- Use government models of intra-departmental and inter-departmental collaboration to better define partnerships within CSO: we need to understand the roles and responsibilities of different government departments in the domestic violence field. That will assist us in establishing partnerships to, for instance, fundraise for civil society projects and make collaborations more effective.
- The impact and role of the mainstream media in relation to the representations of domestic violence continues to be very powerful and at times very harmful. Civil society still needs to work with media organisations to make them aware of their role and to try to influence their messages on domestic violence.

## Programmes and activities

- In general terms, the implementation of the act requires adequate budgetary allocations. The relevant government departments should cost the implementation of the Minister of Finance should make the necessary budgetary allocations.
- Primary prevention of domestic violence needs to start at a very young age. Hence, we need to encourage schools and youth organisations to take the lead in addressing domestic violence and develop more programmes in this regard.
- In terms of information on the risk factors that contribute to domestic violence: we need to understand more the impact of socio-economic circumstances that lead to violence; influence the current labour regime to encourage the absorption of labour force, as issues of unemployment and access to housing do have a tremendous impact in the levels of violence, or the incapacity of women victims of violence to leave their homes.
- There is a need to intensify programmes dealing with the impact of trauma on children victims of domestic violence: very little research exists on the impact of domestic violence on children in South Africa, and less on therapeutic intervention models to deal with this. There are good practices which should be showcased and scaled-up with government funding.
- Restorative justice programmes can be efficient in addressing early stages of domestic violence and alleviating the criminal justice system. However, they need to be carefully designed having as a key focus the safety of women and children. Strict screening and risk assessment of perpetrators sent from courts to various restorative justice programmes needs to be in place
- South Africa has good complaint mechanisms for poor service at courts and police stations, however, they are not widely known by women victims of violence. More public awareness and better use of these complaint mechanisms should be promoted.

## Reporting

- The government cabinet approved the latest report on the implementation of the Convention on the Elimination of Discrimination against Women (CEDAW). The report has not been widely publicised. Civil society organisations should discuss the possibility of elaborating a shadow CEDAW report, which should include a section on domestic violence.
- CSVR will submit the presentations and the conference report to all relevant government departments. The Victim Empowerment Forums can be a point of contact.



## LIST OF PARTICIPANTS

	NAME & PLACE	ORGANISATION	TYPE OF ORGANISATION
<b>KWA ZULU NATAL</b>			
1	Lucky Mkhize	Centre for Criminal Justice	NGO
2	Soraya Smith	Umkhomas SAPS Trauma Unit	Government
3	Fikile Ngema	Zimisele HIV/ AIDS CARE	CBO
4	Nonhlanhla Dlamini	Nicro Social Worker	NGO
5	Nirri Moethilalh	Kwa-Zulu Natal Shelter Movement	CBO
6	Nelisiwe Mhlongo	Bahle Help The Age	CBO
7	Reshma Sathiparsad	University of Kwa-Zulu Natal- School of Social Work	Academic
8	Innocentia Nontobeko Mkhize	WOT Nyoni Community Project	CBO
9	Celiwe Magayiyana	Kwa-Zulu Natal CBO Coalition	CBO
10	Christian Romeo Njia	International Solidarity	NGO
11	Brigitte Thianambo Abanday	Central Africa Conflict Prevention Association	NGO
12	Homashini Peters	FAMSA Pietermaritzburg	NGO
13	Rev. B.M. Buthelezi	Kwa-Zulu Natal Regional Christian Council	CBO
14	Glynnis Dauth	Isiah54 Children's Sanctuary	CBO
15	Susan Johnson	Tabansi Okiciyapi	CBO
16	Mesuli Precious Ntshalintshali	DramAide	CBO
17	Thabile Thembelihle Dlamini	Treatment Action Campaign	NGO
18	Bonisile Goodness Ngcobo	University of Kwa-Zulu Natal Law Clinic	Academic
19	Dr Suhaima Hoosen	Academic	
20	Ashika Maharaj	Gay and Lesbian Network	NGO
21	Thandeka Nkosi	Nicro Social Worker	NGO
22	Oliver Meth	Centre for Civil Society	NGO
23	Octavia Sindisiwe Mkhwanadi	Centre for Civil Society	NGO
24	Mark Ashley Naicker	Department of Justice	Government
25	Yasmin Bacus	Department of Safety and Security	Government
26	Natasha Chanderman	Child Welfare Society	NGO
27	Jacqueline Yolanda Khumalo	Pietermaritzburg Agency for Christian Social Awareness	CBO
28	Busiswa Gqula	Feminist Poet	Individual
29	Jabu Sangweni (CCJ)	Center for Criminal Justice	NGO
30	Florence Saburi (CCJ)	Center for Criminal Justice	NGO
31	Vezi Gugu	Simisela HIV Aids	NGO
<b>CAPE TOWN</b>			
32	Magrieta Ruiters	USAA	NGO
33	Cherith Amanda Sanger	Women's Legal Centre	NGO
34	Marcel Londt	CATTS - University of Western Cape	Academic
35	Renée Jeftha	Mitchell's Plain One Stop Centre	NGO
36	Juanne Waiters	NICRO	NGO
37	Claire Mathonsi	Gender Advocacy Programme	NGO
38	Louise Abrahams	New Dawn Family Life Centre	CBO

	<b>NAME &amp; PLACE</b>	<b>ORGANISATION</b>	<b>TYPE OF ORGANISATION</b>
39	Cheryl Bird	Anglican Church of South African Diocese	CBO
40	Joanie Fredericks	REACH	CBO
41	Caroline Davids	South African Women in Dialogue	CBO
42	Joseph Adams	Sanctuary for Abused Women	NGO
43	Saron Messina	Women on Farms	NGO
44	Cheryl Linders	Caleb Development & Training Association	
45	Adèle van Zyl	Safecare c.c.c	
46	Charmaine Morris	Saartjie Baartman Center for Abused Women and Children	NGO
47	Gadija Essop	Islamic Resource foundation SA	NGO
48	Fatima Ismail	Saartjie Baartman Center for Abused Women and Children	NGO
49	Lorenzo Wakefield	Community Law center- University of the Western Cape	Academic
50	Heléne Combrinck	Community Law center-University of the Western Cape	Academic
51	Vastrohiette Arendse	Trauma Centre	NGO
52	Lillian Artz	University of Cape Town	Academic
53	Lungiswa MEMELA	Western Cape Network on Violence against Woman	
54	Marieta de Vos	Mosaic	NGO
55	Joy Watson	Parliament	Parliament
56	Penny Parenzee	On Par	Consultant
57	Vanessa Padayachee	NICRO	NGO
58	Deidre Brander	NICRO	
59	Nomfundo Eland	Treatment Action Campaign	NGO
<b>NELSPRUIT</b>			
60	Rebecca Maile	Phaphamani Home-Based Care	CBO
61	Khanyi Umasse	Lusito Labomama	CBO
<b>JERUSALEM</b>			
62	Siphiwe Khoza	Reisumi.	CBO
<b>KNYSNA</b>			
63	Nonceba Tyuluba	CBO	
<b>RUSTENBURG</b>			
64	Jabulani Radebe	Former Convicted Offenders Development Agency	CBO
65	Mohlolo Kgotane	FOCODI	CBO
<b>FREE STATE</b>			
66	Holenn Agnong	Congo Renaissance	CBO
67	Mantshadi Setai	Thusanang Advice Centre	CBO
<b>KIMBERLEY</b>			
68	Eucynia Brandt	Department of Safety and Security	Government
<b>EAST LONDON</b>			
69	Doreen Merle A. Foster	Masimamanyane WSC	NGO
<b>POLOKWANE</b>			
70	Ligege T.R.	NGO	
71	Makafane Mmateka	NGO	
72	Fancy Malapela	Far North Network on Family Violence	CBO
73	Ntwanano Nkuna	FAMSA	NGO
74	N. Mudau	Mutale Victim Empowerment Programme	NGO
75	Tshilidzi Masikhwa	Thohoyandou Victim Empowerment Programme	NGO
76	Mmateka Seipati Makafane	Victim Support Centre Modimolle	CBO
77	Fiona Nicholson	Thohoyandou Victim Empowerment Programme	NGO
<b>JHB/PTA</b>			
78	Winnie Modiba (RJC)	Restorative Justice Centre	NGO

	<b>NAME &amp; PLACE</b>	<b>ORGANISATION</b>	<b>TYPE OF ORGANISATION</b>
79	Ndivhuho Sekaba	Ilithalabantu	NGO
80	Lynette Strijbis	Mali Martin Centre	CBO
81	Melanie Judge	Out LGBT Wellbeing	NGO
82	Rahaba Modiba	Attredgville Court	NGO
83	Viglia Bester	Maje	CBO
84	Collet Ngwane	CSVr	NGO
85	Angelica Pino	CSVr	NGO
86	Lufuno Mokwena	Tshwaranang	NGO
87	Maria van Driel	Reproductive Rights Alliance	NGO
88	Lorraine MacDogall	Lifeline East Rand	NGO
89	Lindiwe Farlane	Engenderhealth	NGO
90	Jeffrey Monakisi	Engenderhealth	NGO
91	Dr Marina Weideman	DRA	NGO
92	Pontsho K Segwai	World Vision	Donor
93	Lizette Meyer	DRA	NGO
94	Lisa Vetten	Tshwaranang	NGO
95	Thembeke C Maduna	Kabwe Waste Removal	CBO
96	Romi Sigsworth	CSVr	NGO
97	Joy Apolot	CSVr	NGO
98	Nonhlanhla Mashile	Nisaa	NGO
99	Nditsheni Maanda	Nisaa	NGO
100	Sima Vallah	Nisaa	NGO
101	Nonhlanhla Sibanda	Powa	NGO
102	Anna Conradie	Restorative Justice Centre	NGO
103	Sixole Ngcobo	Gender & HIV/Aids - Norwegian...	Donor
104	Loretta Pillay	Department of Science & Technology	Government
105	Sandile Fetile	Restorative Justice Centre	NGO
106	Bukeka Mkhosi	CSVr	NGO
107	Pascal Sundi	CSVr	NGO
108	Serena Williams	CSVr	NGO
109	Busisiwe Phalatsi	Lungelo Women's Organisation	CBO
110	Mark Naicker	Department of Justice	Government
111	Masechaba Makhetha	Reutloile Community Organisation	CBO
112	Mary Lesoma	Reutloile Community Organisation	CBO
113	Adele Kirsten	CSVr	NGO
114	Albert Mugunya	CSVr	NGO
115	Biata Walsh	Adlib Studio	Consultant
116	Wendy Isaacs	POWA	NGO
117	Delphine Serumaga	POWA	NGO
118	Michelle Festus	Diakonia	Donor
	<b>MOZAMBIQUE</b>		
119	Helena Zacarias Pedro Garrine	Forum Mulher	NGO
120	Maria Sabata Da Graça Julio	Forum Mulher	NGO
121	Ana Cristina Monteiro	Forum Mulher	NGO
	<b>ZIMBABWE</b>		
122	Thandekile Ngwenya	Zimbabwe Women's Lawyers Association	NGO
123	Sithokozile Nyaradzo Thabethe	Zimbabwe Women's Lawyers Association	NGO
	<b>NAMIBIA</b>		
124	Allison De Smet	Legal Assistance Centre	NGO

	<b>NAME &amp; PLACE</b>	<b>ORGANISATION</b>	<b>TYPE OF ORGANISATION</b>
	<b>INDIA</b>		
125	Anuradha Mohanty	PECUC-India	NGO
	<b>ARGENTINA</b>		
126	Josefina Duran	Equipo Lationamericano de Justicia y Genero (Latin American Justice and Gender	NGO

# CENTRE FOR THE STUDY OF VIOLENCE AND RECONCILIATION

## JOHANNESBURG OFFICE

4th Floor, Braamfontein Centre,  
23 Jorissen Street, Braamfontein,  
Johannesburg, South Africa

P O Box 30778, Braamfontein,  
Johannesburg, 2017

Tel: +27 (11) 403 5650  
Fax: +27 (11) 339 6785

e-mail: [info@csvr.org.za](mailto:info@csvr.org.za)

## CAPE TOWN OFFICE:

501 Premier Centre,  
451 Main Road,  
Observatory, 7925

Tel: +27 (21) 447-3661  
Fax: +27 (21) 447-5356

e-mail: [info@csvr.org.za](mailto:info@csvr.org.za)

[www.csvr.org.za](http://www.csvr.org.za)

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