

Lessons from a Decade of Legislation and Implementation, 2008

by Joy Watson

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Contextual Background

Gender-based violence perpetrated against women is so widespread that it constitutes a global epidemic in its own right and cuts across geographic, race, class and cultural boundaries. The Global Report on Women's Rights argues that domestic violence is one of the leading causes of injury amongst women in almost every country in the world and is typically ignored by the state or only erratically punished¹. It has been argued that violence against women has become so pervasive and systemic that it has become entrenched within many societies and is generally tolerated by institutions of the state. Fedler and Tanzer (2000) argue that the failure of many states to repeal oppressive laws, the non-enforcement of constitutional rights, and the role played by abusive government officials in condoning the levels of violence experienced by women, all contribute to the creation of an enabling environment within which violence against women thrives. Levinson suggests that there are four factors that, based on the extent to which they exist in conjunction with each other, determine the prevalence of violence in a society. These factors are the economic inequality between men and women, the level to which violence is used as a conflict-resolving mechanism, male authority and control of decision making and restrictions on women's ability to leave the home (1989, quoted in Bunch et al 1998).

In South Africa, as a consequence of systemic power imbalances that have favoured the economic enrichment of men, women have come to constitute the majority of the poor. A patriarchal culture which has led to the systematic oppression of women in many practical ways i.e. ostracism from political, social and economic power, has also tended to exacerbate gender-based violence. Violence against women in South Africa must therefore be located within its broader social, cultural and political context. It must be looked at, for example, in the framework of the effects of colonisation and apartheid and the social impact of these ideologies. South Africa is a particularly violent country where men often resort to violence as a conflict resolution strategy. The statistics for femicide in the country are indicative of this. A recent study conducted by the Medical Research Council and Centre for Violence and Reconciliation, estimates that a woman is killed by her intimate partner every six hours in South Africa. This study collected data on female homicides. Data was collected from a sample of twenty-five mortuaries and cases were followed up via their police case number to the investigating officer and docket. The findings estimate that

¹ Sourced from Mail and Guardian, September 1995: R Wright, "Beijing '95: Strike the women...."

approximately nine out of every 100 000 women are victims of femicide. This amounts to approximately four women being killed every day by an intimate partner. The findings of the study are alarming, particularly in a global context where this is reputed to be the highest femicide rate ever reported in research anywhere in the world (Mathews et al, 2004).

South Africa emerges as one of the most violent societies for women to reside in. It is also important to point out that the repercussions of domestic violence, rape and other forms of violent crime against women are multifold. One of these is that it does not only affect the women concerned in very significant ways, but all women who read and hear about such violence because the fear associated with becoming a victim of gender-based violent crime is internalised and consequently affects the way in which many women live their lives. Fedler et al (2000) therefore argue that women are not only governed by violence, but by the constant threat of violence and will therefore go to extraordinary lengths to avoid violence, which often results in a limiting of life choices.

Focus of Paper

The proposed paper for presentation to the conference on domestic violence will seek to do a critique of the effectiveness of the Domestic Violence Act, focusing on its key achievements to date and the related challenges which still need to be addressed. This analysis will be linked to submissions made by women, particularly women in impoverished communities, at public hearings held by the South African Parliament over the course of the past 10 years. These hearings focused on women's experiences of gender-based violence and the criminal justice systems set in place to deal with this. The submissions speak to the needs of women in relation to further enhancing the support and redress provided to victims of domestic violence.

The research method utilised will entail an examination the reports of public hearings conducted on violence against women by the Joint Monitoring Committee on Improvement of Quality of Life and Status of Women in the period between 1999 and 2006. These hearings focused on women's experiences of gender-based violence and the systems set in place to address this and provide support to victims. The submissions therefore contain oral narratives and public submissions from women's organisations and from women in poor and rural communities nationally. The value of these reports resides in the fact that they span a relatively long period of time, namely from 1999 until 2006, the limitation of course being that no information exists for 2007 and 2008. The reports also contain submissions and inputs from a range of different stakeholders, women's organisations, NGOs and CBOs, women in both rural and urban communities, and key governmental stakeholders such as the gender machinery and line departments that play a role in providing support to victims of gender-based crime.

The value of analysing women's inputs into the public participation processes of the state is important from the perspective of reflecting on the extent to which the state is able to heard and engage with women's voices. The role of women in actively participating in state-initiated public participation processes to articulate their needs is viewed from the perspective that women's lived realities have generally constituted a submerged voice in the organisational ethos of public sector institutions. Together with other subjugated knowledges and experiences that are unequally distributed in the institutional arena,

women's submerged voices generally get lost within institutional frameworks. Patriarchal institutional contexts serve to insulate themselves from women's voices through the dominant linguistic and institutional practices. The articulation of women's voices entails breaking into the institutional dialectic speech and changing the prevailing institutional practices. This is because there is a need to search for alternatives to the institutional practices of public institutions within the context of the submerged and devalued experiences of women. The proposed paper will engage with the extent to which women's voices have been submerged (or not) in the public participation processes of the South African Parliament in relation to their experiences of the implementation of the Domestic Violence Act.