

## Helping Abused Women Access a Protection Order: The Role of Religious, Traditional and Community Leaders

Rasool, S<sup>1</sup>

### ABSTRACT

Religious,<sup>2</sup> traditional and community leaders (RTCL) have an important role to play in the social protection of women who disclose abuse. If abused women disclose abuse to RTCL, their actions on the one hand, could either prevent further abuse and femicide; as well as protect children exposed to domestic violence. Or on the other hand, if they do not respond appropriately at critical moments of disclosure, they allow abuse to continue by not assisting survivors. This article aims to assist RTCLs, and other potential systems of support, utilize the legislation to assist survivors of domestic violence.

The landmark Domestic Violence Act (116 of 1998) is the result of extensive advocacy and lobbying by women's groups to locate gender based violence firmly in the public domain. It provides one very important avenue that can be utilized by RTCLs to help abused women access their human rights, by employing the law. This article provides an outline of process and the details of the legal remedy available to survivors of abuse provided by the DVA. It is however important to remember, that whilst it is imperative for RTCLs to understand how to assist survivors utilizing the DVA to obtain protection this must be accompanied by a package of other services, since it is not effective as a standalone instrument.

### Introduction

International and South African studies indicate that while the abuse of women is widespread, disclosure of violence and help-seeking thereafter is limited.<sup>3</sup> The prevalence rate of woman abuse in South Africa, indicates that one in four women experience physical abuse in their lifetime<sup>4</sup>. Despite the

---

<sup>1</sup> Shahana Rasool has been an activist, researcher, trainer and academic in the field of gender s, with a particular focus on gender-based violence. She has a Masters and Doctorate from the University of Oxford, Department of Social Policy. Shahana is a social worker and has a keen interest in social transformation, which began as an anti-Apartheid activist and continued through her NGO work. The core of Shahana's work is concerned with social transformation, with a focus on improving the lives of women and other marginalised groups. She is a lecturer in the Department of Social work, University of Johannesburg. [Shahanar@uj.ac.za](mailto:Shahanar@uj.ac.za)

<sup>2</sup> A religious leader is a person who provides spiritual and/or religious guidance to a person or community. This paper is aimed as religious leaders of various faiths and denominations..

<sup>3</sup> Vetton, L., (2009). *Domestic Violence Act implementation: 10 year review*. Tshwaranang Legal Advocacy Centre & Gender Advocacy Programme (GAP): Report to Women in the Presidency, Johannesburg. <https://pmg.org.za/committee-meeting/10786/>

Rasool, S; Vermaak, K; Pharoah, R; Louw, A, Stavrou, A. (2002) *Violence against Women: A National Survey*. Institute for Security Studies: Pretoria

WHO. (2005). *Multi-country study on women's health and domestic violence against women*. Geneva: World Health Organization.

<sup>4</sup> Jewkes, R., Penn-Kekana, L., Levin, J., Ratsaka, M., & Schriber, M. (1999). *"He must give me money, he mustn't beat me": Violence against women in three South African Provinces*. Pretoria: Medical Research Council.

extensive scope and enduring nature of woman abuse<sup>5</sup>, help-seeking from formal systems<sup>6</sup> specifically to deal with (DV) was utilized in only a minority of cases.<sup>7</sup>

A growing body of research suggests that while women do not readily seek help from formal support services and protection systems, they may be utilising informal networks, such as family, friends and neighbours, as a first option after incidents of woman abuse<sup>8</sup>. Nevertheless, extensive investment of resources is being made by the South African government to improve the delivery of formal services, particularly the criminal justice system (CJS), and this is marked by the landmark Domestic Violence Act 116 of 1998 (hereinafter referred to as the DVA)<sup>9</sup>. The South African DV legislation and relevant constitutional clauses are important and necessary pre-conditions to enable women to exercise their human and citizenship rights. However, legislation such as the DVA assumes that women will seek formal help, and that when they do, it will be from the CJS. Whilst some women may know about the protection order(PO) that may be obtained in terms of the DVA, in many instances it seems that the first contact women have with formal services are in health settings<sup>10</sup>. Very few women utilise lawyers and counsellors to deal with DV in South Africa<sup>11</sup>, but many speak to informal networks, such as family and friends about abuse<sup>12</sup>. Another unexplored formal resource that women may disclose to are religious, traditional and community leaders (hereinafter referred to as RTCL. South African research has indicated that '20% of women sought help from a religious person after the most serious incident of abuse',<sup>13</sup> which is more than for most other forms of formal systems of support. Potgieter and Gabriel<sup>14</sup> suggests that victims are disclosing to faith leaders but they are often complicit with abuse by not

---

<sup>5</sup> Meyer, L., McConnell, J., Fensham, L., Groth, L., Jansen, R., & Phillips, V. (2007). *Assessment of the Implementation of the Domestic Violence Act and its effects on the lives of women seeking protection orders: A study of abused women at four courts in eThekweni*. Pretoria: Lawyers for Human Rights.

<sup>6</sup> Formal help-seeking focuses on women's use of services such as doctors, nurses, lawyers, counsellors, psychologists and social workers; as well as the institutional services delivered by the police; courts; non-governmental organisations (NGOs) and community-based (CBOs) organisations. It also includes help-seeking from religious and community leaders.

<sup>7</sup> Artz, L. (2011). "Fear or Failure? Why Victims of Domestic Violence Retract from the Criminal Justice Process". *South African Crime Quarterly*, 37, pp.3-10

Rasool, S et al. (2002). *Violence against Women*

WHO. (2005). *Multi-country study*

Burgess-Proctor, A. (2008). *Understanding the help-seeking decisions of marginalized battered women* (Unpublished doctoral dissertation). Michigan State University, East Lansing, MI.

<sup>8</sup> Machisa, M., Jewkes, R., Lowe-Morna, C., & Rama, K. (2011). *The war at home: Gender based violence indicators project*. Johannesburg: Gender Links. Rasool, S., & Hochfeld, T. (2005). Across the public/private boundary: Contextualising domestic violence in South Africa. *AGENDA*, 66, 2-15.

Rasool, S et al. (2002). *Violence against Women*

WHO. (2005). *Multi-country study*. P.87

<sup>9</sup> Domestic Violence Act, No. 116 (1998). Government Gazette: Pretoria

<sup>10</sup> Hochfeld, T. (1995). *Jewish family doctors as a support system for abused women: Can they be relied on?* (Unpublished honours research report). University of Witwatersrand, Johannesburg.

Hoff, L. (1989). *People in crisis: Understanding and helping* (3rd ed.). Redwood City: Addison-Wesley.

Rasool, S. (1995). *Women abuse: Knowledge, attitudes and practices of medical general practitioners in the Lenasia area* (Unpublished honours dissertation). University of Witwatersrand, Johannesburg.

Motsei, M. (1993). *Detection of battering in healthcare settings: The case of Alexandra Health Clinic* (Paper 30). Johannesburg: Department of Community Health, University of Community Health.

<sup>11</sup> Heise, L., & Garcia-Moreno, C. (2002). Violence by intimate partners. In E. Krug, L. Dahlberg, J. Mercy, A. Zwi, & R. Lozano (Eds.), *World health report on violence and health* (pp. 87-113). Geneva: World Health Organisation.

Rasool, S et al. (2002). *Violence against Women*

<sup>12</sup> Kushner, M. G., & Sher, K. J. (1991). The relation of treatment fearfulness and psychological service utilization: An overview. *Professional Psychology: Research and Practice*, 22(3), 196-203.

<sup>13</sup> Rasool, S et al. (2002). *Violence against Women*, p. 99

<sup>14</sup> Potgieter, S; Gabriel, E. (2015). Child Abuse and the Church as a Service Provider. *SVRI Forum 2015*. Stellenbosch.

responding, ignoring or sending them back to abusive situations. In a survey conducted in DRC<sup>15</sup>, “84% of all respondents felt that religious institutions should play an active role in engaging gender equality”. However, very little is known about what happens in their help-seeking from RTCL, since this is an emerging area of research. Most of what we do know about seeking help from RTCLs, is anecdotal and a consequence of general studies of DV and/or help-seeking.<sup>16</sup> My contention is therefore that many women disclose abuse to RTCLs earlier than from other formal systems<sup>17</sup> and in some cases they may be helped, but more often than not, they are sent back to the abusive relationship to make the marriage work for the sake of children<sup>18</sup> and due to religious constructions of marriage that suggest marriages should be sustained ‘till death do us part.’<sup>19</sup>

Expectations of sacrificial caring, despite the abuse, are evident in religious marital vows that seem to highlight the notion of “for better, for worse, for richer, for poorer, in sickness and in health ...till death us do part.” Whilst, these specific words come from the Christian tradition, most religious doctrines and leaders advocate for the sacredness of marriage and maintaining the marriage for the sake of the family and the best interests of children, over the needs and interests of women<sup>20</sup>. These religious and socio-cultural constructions of marriage<sup>21</sup> are instrumental in women’s reluctance to seek help as they feel compelled to stay and make relationships work because this is expected of them in terms of the prescribed gender roles of caretaker, nurturer and healer, despite the extensive personal costs to them.<sup>22</sup> However, RTCLs to whom women disclose abuse, can play an active role in enabling women’s help-seeking by being advocates for women and supporting them<sup>23</sup> through the process of utilizing the DVA, which is otherwise complicated and daunting. Intervention by RTCLs are critical since they are invited into the homes and lives of members of their congregation who are motivated to comply with their recommendations due to their extensive influence<sup>24</sup>.

The aim of the article is to provide RTCL leaders with knowledge of the prescriptions of the DVA in order to facilitate the use thereof as an advocacy tool. Whilst this article is focused on the DVA, which is curative, I am not suggesting it is the only approach to managing DV. Rather it is one response, in a range of prevention and intervention measures, which could be useful in assisting women who are

---

<sup>15</sup> Le Roux, E; Lele, U.; Sandilands, M. (2015) Engaging with faith groups to prevent violence against women and girls in conflict affected communities: A three-year tracking of 15 communities in the Orientale Province, DRC (Initial Findings). *SVRI Forum 2015*. Stellenbosch.

<sup>16</sup> Rasool, S. (2011). *Help-seeking by Abused Women in South Africa*. Dissertation. United Kingdom: University of Oxford.

Artz, L. (1999). *Violence against women*

<sup>17</sup> Rasool, S. (2011). *Help-seeking*

<sup>18</sup> Rasool, S. (2015). “Help-seeking after Domestic Violence: The Critical Role of Children”. *Journal of Interpersonal Violence*.  
<http://jiv.sagepub.com/cgi/reprint/0886260515569057v1.pdf?ikey=SDXW7mzZK7dAn1z&keytype=finite>

<sup>19</sup> M. Frahm-Arp (2015) in this edition “Surveillance and Violence against Women in Grace Bible Church and the Zionist Christian Church” *Journal of Gender and Religion* [Details for this edition](#)

Rasool, S. 2012. “Do we accept the unacceptable? The privatization of women abuse by informal networks in South Africa”. *Journal of Gender and Religion in Africa*. 18, 2, December, 143-149.

Rasool, S. (forthcoming). “The influence of social constructions of family on abused women’s help-seeking after domestic violence”. *South African Review of Sociology*.

<sup>20</sup> Rasool, S. (2015). Help-seeking after Domestic Violence

Rasool, S. (2012). Do we accept

Rasool, S. (forthcoming). The influence of social constructions

<sup>21</sup> Frahm-Arp (2015), in this edition “Surveillance and Violence”

Rasool, S. (forthcoming). The influence of social constructions

<sup>22</sup> Goldner, V., Penn, P., Sheinberg, M., & Walker, G. (1990). Love and violence: Gender paradoxes in volatile attachments. *Family Process*, 29(4), 343-364.

<sup>23</sup> Deepan, P. (2015). Transforming Masculinities: An evidence-based approach to work with faith communities on gender and masculinities. *SVRI Forum 2015*. Stellenbosch

<sup>24</sup> Le Roux et al. (2015) Engaging with faith

already in DV situations, depending on the type of perpetrator. It may be that some RTCLs are already aware of the DVA, but the prescriptions are complex and understanding the details of the DVA is critical for leaders to assist women effectively to navigate the system. Research has indicated that positive responses from systems of support engender further help-seeking and is critical for the social protection of abused women since it facilitates "connection with other service providers, likely through assessment and referral".<sup>25</sup> If women can effectively be assisted through navigating the CJS perhaps this could reduce the attrition and withdrawal rates. RTCL's also have an important role to play in encouraging and assisting women who are unaware of this remedy or who would never think of utilizing it due to being intimidated by the process and their partners.. The repercussions of RTCLs and other networks not identifying or dealing appropriately with abuse is often repeat victimisation and, in the worst case scenario, femicide.<sup>26</sup>

### Domestic Violence legislation

Domestic violence has only emerged as a public issue in South Africa in the 1990's. Historically, if a woman reported DV to the police, it would have been recorded as an assault if the officer considered it serious enough. The Prevention of Family Violence Act 133 of 1993<sup>27</sup> (PFVA) was the first piece of specific legislation on DV in South Africa. Controversy raged over the PFVA since organizations concerned with DV felt that it was minimalist, did not reflect the needs of women and did not legislate DV as a specific crime category, hence activists lobbied for its reformulation<sup>28</sup>. The DVA is a civil remedy and its main aim is to outline a protection order (PO), which is a court order that DV survivors can access. The PO is intended to protect a person from abuse by legally prohibiting the perpetrator from engaging in abusive acts.

There are two steps to the process of applying for a PO. First the survivor applies for an interim PO through filling in an application form. Should she require assistance, the Clerk of the court can assist her with this process. In the application forms, the survivor needs to convince the court that there is *prima facie* evidence that the abuser has committed DV and that s/he will suffer 'undue hardship' if the interim PO is not issued as a matter of urgency. If the survivor cannot show undue hardship, s/he will have to wait for the 'return date' for protection, which is the date after which the respondent is served, and both the victim and respondent are required to appear at court for a hearing. If the alleged perpetrator does not appear on the return date, there must be proof that the order has been served properly, before the court can proceed with the case. This has been specified since abusers complained that "their right to a fair hearing was being violated by the act."<sup>29</sup> In this hearing, the respondent is provided with an opportunity to present reasons that the protection should not be finalized. The court decides whether or not to finalize the order based on a balance of probabilities that the respondent has or is committing acts of DV. The process of applying for an interdict is complicated, bureaucratic and time-consuming and "women reported the judicial process to be disempowering due to the lack of information and the complexity of application forms"<sup>30</sup>. Survivors successfully negotiating the process are largely dependent on the assistance of formal and informal resources, like representatives from social service organizations or RTCL.

The process can be made accessible if women have such a support person (like RTCL; family; friends; volunteers or social services) to help them negotiate the system, although this is not specified or expected under the terms of the Act. The support person needs to explain the processes and procedures a survivor will have to follow in order to obtain a court order and to help her collate information necessary to prove she is in need of a PO. Some of the aspects the support person can advise the applicant to include in the PO is that the abuser should not enter the shared residence; specific areas in that residence; or the home or workplace of the survivor. The PO can also stipulate other clauses necessary to ensure the safety and well-being of the survivor based on the merits of the case. However, some magistrates do not always include the various stipulations necessary to protect

<sup>26</sup> Sharps, P., Koziol-McClain, J., Campbell, J., McFarlane, J., Sachs, C., & Xu, X. (2001). Healthcare providers' missed opportunities for preventing femicide. *Preventative Medicine*, 33, 373-380.

<sup>27</sup> Prevention of Family Violence Act, No. 133 (1993).

<sup>28</sup> Rasool, S. (2015) The influence of social constructions

<sup>29</sup> Meintjes, S. (2003) The Politics of Engagement. .153

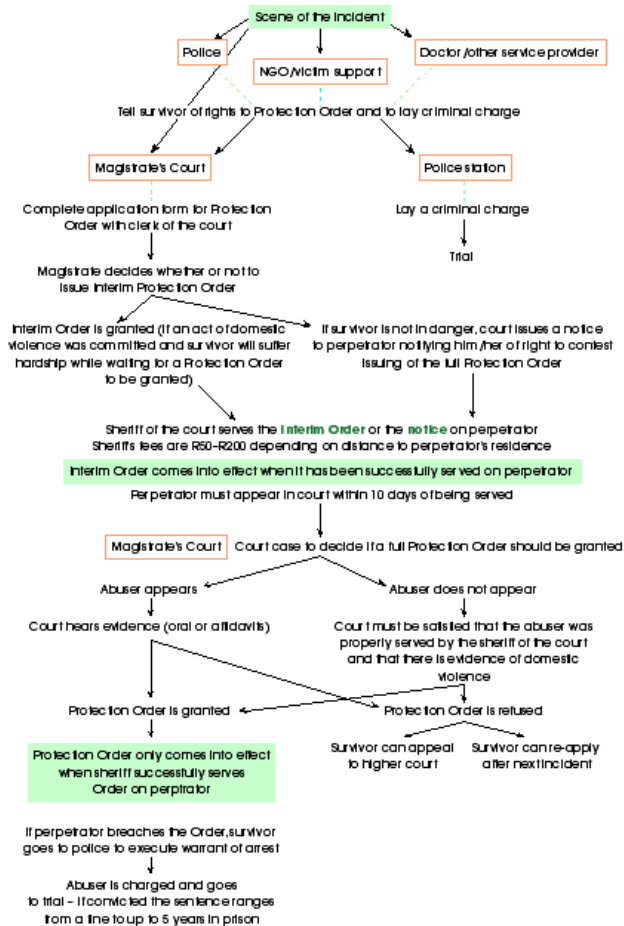
<sup>30</sup> Mathews, S. & Abrahams, N., (2001). Combining Stories 2-3

women unless specifically asked by the survivor. Survivors usually have little knowledge on what they need to ask for to get the fullest coverage possible from a PO. Usually a survivor would only ask for it if she has been advised by a social service organization or an attorney who is aware. There is therefore a need for magistrates and others like RTCL to play a more active role in advocating for clauses to increase her protection. The diagrammatic representation of the process of applying for a PO outlined below (diagram A) indicate clearly the complicated nature of the process from the time the survivor speaks to someone about the abuse and they tell her about the possibility of applying for an order.<sup>31</sup> It does not represent the processes women might have to undertake when accessing other procedures such as a criminal trial, or district surgeon examination, though it does mention the professionals that survivors may contact.

---

<sup>31</sup> Rasool, S. (1999). "The new Domestic Violence Act: Responding to survivors' needs". *Nedbank ISS Crime Index*. 3(5). September/October.

DIAGRAM A. Process for obtaining a court order<sup>32</sup>



Obtaining a PO in the past was largely dependent on the magistrate's interpretation of what constitutes DV because of the limited definition under the PFVA<sup>33</sup>. The changes brought about by the new Act attempts to limit the influence of interpretation in defining DV and the persona eligible for POs by expanding and clarifying these terms. The definition of DV has been extended beyond physical violence to include sexual, emotional, and economic abuse, intimidation, stalking, damage to property and any other controlling behaviors. The DVA is also gender neutral and covers a variety of types of relationships, not only married couples living together but couples living separately, unmarried couples and same sex couples. These change are an attempt by policy makers to respond to the diverse experiences of survivors based on the input provided by organizations.

However, like all legislation, the current Act is also open to interpretation in relation to existing jurisprudence and on the basis of what is presented by both parties as well as case law. Although

<sup>32</sup> Rasool, S. (1999). The new Domestic Violence Act

<sup>33</sup> Parnzee, P., et al. (2001). Monitoring the

increasing specificity in the DVA was aimed at limiting interpretation, nevertheless research has indicated that,

Insights gained through more contemporary jurisprudence reveal that the subjectivity of the observer or legal subject affects the interpretation of events. This means that the Domestic Violence legislation looks different from the perspective of the complainant, the abuser, the police officer, the prosecutor, the magistrate, the volunteer.<sup>34</sup>

The DVA provides a number of useful clauses that can be utilized by RTCL in their advocacy to assist women. Firstly, the responsibilities of the police are clearly outlined. They are bound to tell survivors their rights; help them find a place of safety and obtain medical treatment; and accompany the survivor to collect her belongings if necessary. This is very important since the police are the first step in the CJS and their advice and support is critical to the success of the case as well as the survivor's willingness to proceed. Survivors can charge police officials with misconduct if they do not comply with the duties outlined by the Act. Second, the address of the survivor is kept confidential for protection purposes, which was not always the case under the previous legislation. Previously abusers could trace women to their new address and harass, intimidate or abuse them.

A third and very important inclusion in the DVA is that a person with "material interest" in the survivor's situation could with their consent apply for a PO on their behalf<sup>35</sup>. This is significant in cases where survivors are fearful or lack mobility because of abusers controlling behavior, however there are not many cases in which others apply for the PO on behalf of survivors<sup>36</sup>. In essence this means that RTCL or other resources, which have an interest in the safety of survivors can apply for a PO on their behalf. This is imperative, and the point of departure for this article, that RTCL need to take a more active stance in either applying for the order on behalf of women or assisting them through the process, since women get frustrated by the arduous process of negotiating the system.<sup>37</sup> Fourth, Magistrates' powers have been extended to deal with requests relating to contact with children<sup>38</sup>, confiscate weapons and compensate survivors<sup>39</sup> for expenses incurred in the process<sup>40</sup>. It is beneficial that contact with children be considered at the same time as DV since cognizance of the impact and complexity of DV on access to children is not always recognized in custody hearings. Issues of contact with children, usually limit a survivor's ability to deal effectively with DV situations<sup>41</sup> and extensive research indicates children are negatively impacted by DV<sup>42</sup>. Moreover, compensating survivors is a vital way of addressing the economic dependence that keep women in abusive relationships<sup>43</sup>. Fifth, an interim order can be issued if it is felt that the survivor will experience "undue hardship" whilst waiting for the court process to issue the final PO. Moreover, this order can be issued outside of office hours<sup>44</sup>. Finally, the order is not restricted to the jurisdiction under which it was issued, but can be applied nationally. Hence, if women seek refuge in areas other than the one in which they applied for the order, they are still protected.

Despite these improvements, the extent to which this Act can be implemented is questionable, considering the state of the CJS in South Africa. In particular, it has not been specified how interim orders outside of court hours will be facilitated. Whether magistrates use the powers given to them to deal with child contact issues and financial compensation is unclear. There are serious concerns with regard to appropriate budgetary allocations for implementing the Act<sup>45</sup>. Budgets are critical to ensure

---

34 Parenzee, et al. (2001). "Monitoring" 107

35 Section 4(3)

36 Parenzee, et al. (2001). "Monitoring"

37 Mathews, & Abrahams (2001) Combining Stories

38 Section 7(6) of the DVA

39 Section 7(4)

40 Parenzee, et al. (2001). "Monitoring"

41 Rasool, S. (2015). Help-seeking

42 Mathews & Abrahams, (2001) Combining Stories

43 Parenzee, et al. (2001). "Monitoring"

Burgess-Proctor, A. (2008). *Understanding*

44 Parenzee, et al. (2001). "Monitoring"

45 Meintjes, S. (2003) "The Politics of..."

Bowman, S., Dey, K., Meltz, T.R., Rangasami, J., Williams, J. (2013). Protecting Survivors of Sexual Offenses: Legal Obligations on the State with Regard to Sexual Offenses. The Women's Legal Centre

complementary resources which would facilitate the implementation of the legislation, for example shelters or alternative housing options so that abused women are not forced to live with the abuser post the PO application. Although survivors can hold the police accountable for dereliction of their, it is questionable whether survivors have the knowledge and the capacity to do so.

Critically, the most important issue still remains: is a PO enough to keep survivors safe? Some survivors have reported that when a perpetrator is served with a PO he became more aggressive. One said,

He was angry. The next day he caught me ...He threw it (i.e. interdict) on the ground and said, 'What's this? It doesn't scare me!' Then he hit me on the head. He was charged with common assault but they did not lock him up... He was found not guilty because there was no evidence of injury.<sup>46</sup>

Abused women are most vulnerable to femicide at the time of leaving abusive relationships<sup>47</sup>. Depending on the profile of the abusers they may not take the PO seriously<sup>48</sup>, which is reflective of the limited respect accorded to law and order in South Africa. Hence, RTCLs and other formal and informal networks, need to understand that the PO in and of itself is not adequate to ensure the safety of women and that they may be at greater risk at this time as they are challenging the abusers power over them. Hence, RTCLs can play a role in assisting women develop safety plans and other mechanisms to prevent further violence and femicide post the attainment of a PO.

Ongoing evaluation of the implementation of the DVA has indicated that key to the success of the functioning of the DVA is inter-sectoral collaboration, training, resources, adequate budgetary allocation and ongoing advocacy.<sup>49</sup>

Implementation of the Act is hampered by lack of police vehicles, photocopiers, fax machines and, most importantly, personnel<sup>50</sup>. Moreover,

Both police and court personnel expressed a sense of being expected to do something with no guidance, support or resources to do so. It appears as though the trauma of dealing with DV has created a feeling of helplessness among those who are expected to provide protection against violence.<sup>51</sup>

The context within which the law has to be implemented poses a number of obstacles, such as communities where roads and house numbers are not clearly marked make it difficult for the sheriff to serve the interdict.<sup>52</sup> This applies to all criminal law, but the immediacy of DV because of the shared living arrangement, intensifies the need for an immediate response to ensure protection. Despite clear guidelines and definitions in the Act, personal perceptions of whether DV is a crime to be punished by the law still reign.<sup>53</sup> These perceptions could also influence whether RTCL's are willing to engage and assist women in obtaining their citizenship rights.

## CONCLUSION

<http://www.shukumisa.org.za/wp-content/uploads/2010/11/Protecting-Survivors-of-Sexual-Offences-Legal-Obligations-of-the-State-with-Regard-to-Sexual-Offences.pdf>

<sup>46</sup> Rasool, S., Vermaak, K., Pharoah, R., Louw, A., & Stavrou, A. (2002). *Violence against women: A national survey*. Pretoria: Institute for Security Studies.

<sup>47</sup> Campbell, J., Webster, D., Kozoil-Mclain, J., Campbell, D., Curry, M., Gary, F., Glass, N., McFarlane, J., Sachs, C., Sharps, P., Ulrich, Y., Wilt, S., Manganello, J., Xu, X., Schollenberger, J., Frye, V., & Laughon, K. (2003). Risk factors for femicide in abusive relationships: Results from a multisite case control study. *American Journal of Public Health, 93*(7), 1089-1097.

Vetten, L. (1996). *Man shoots wife: Intimate femicide in Gauteng*. Johannesburg: Centre for the Study of Violence and Reconciliation. Retrieved from <http://womensnet.org.za/pvaw/understand/manshoots.htm>

<sup>48</sup> Parenzee, et al. (2001). "Monitoring"

<sup>49</sup> Parenzee, P. (2001). While women wait: Monitoring the Domestic Violence Act. *Nedbank ISS Crime Index, 5*(3), 10-13

Vetton (2009) Domestic Violence

<sup>50</sup>Usdin, S; Cristofides, N.; Malepe, L; Maker, A (Nov., 2000). Reproductive Rights, Advocacy and Changing the Law, *Reproductive Health Matters, 8*, (16,), 55-65

Parenzee, et al. (2001). "Monitoring"

<sup>51</sup> Parenzee, P. (2001). While women wait:

<sup>52</sup> Parenzee, P. (2001). While women wait:

<sup>53</sup> Parenzee, P. (2001). While women wait:



The effectiveness of the DVA as a mechanism to keep women safe and prevent re-victimization is ambiguous. In many cases, women are unaware of the PO, how it can be accessed and how it can assist them in dealing with DV. Even when women know about the PO, the process of obtaining one remains daunting, since it can be time-consuming and complicated<sup>54</sup>. Implementation problems that exist in the CJS, such as limited police and court resources, are also obstacles to women accessing the PO and receiving the protection they require once they obtain it<sup>55</sup>. This is particularly highlighted in difficulties women face in getting police to act on the warrant of arrest attached to a PO. Survivors are required to call the police for assistance when there is a breach of the order, and sometimes perpetrators are not afraid of the law.<sup>56</sup> Further, Artz's<sup>57</sup> study highlights that the police still have huge discretion in exercising the duties outlined in the DVA. Police persist in applying the traditional 'arrest avoidance' policy, even when women have a warrant, based on beliefs that, for example, abuse is a private matter.<sup>58</sup> Further, abused women's negative experiences with the CJS and the process of obtaining a PO<sup>59</sup> may make them reluctant to seek further help from formal services on other occasions. Hence, obstacles to implementing and accessing the PO, as well as systemic issues in the criminal justice system, impact on the possibilities of making the DVA; a stand-alone mechanisms for fully protecting abused women. Nevertheless, it is important to remember that the law and constitution are important and necessary pre-conditions to enable women to exercise their human and citizenship rights, and is the result of years of activism and lobbying. Formal and informal resources, such as RTCL and social service organizations, can play an active role in helping women access their human rights by facilitating abused women's access to legal remedies.

Realizing the rights provided by legislation requires the commitment and action of all social actors that have contact with survivors of DV, especially informal systems of support such as family and friends, and critically formal systems including RTCLs. RTCLs are based in communities and are exceedingly influential because they have the trust of their congregations who are willing to take their advice and follow their lead. Hence they can assist women negotiate the system by:- practically providing information and assisting them through the process; emotionally helping them deal with psycho-social effects of the abuse; and the secondary trauma of negotiating the system. This support is imperative since international and local studies indicate that seeking help can lead to the prevention and cessation of further violence.<sup>60</sup> Over and above knowledge of the DVA RTCLs need to know about the range of services available in their communities to which they can refer abused women in order to provide them with a wholistic service. RTCL are also important actors in keeping the state accountable to its commitments to DV, at the personal, societal and structural levels. At the personal level, RTCLs need to hold the police and courts accountable to the prescriptions in the legislation when assisting individual women through the process. At the societal level RTCLs can work with the CJS to ensure they treat victims appropriately. They can also address the issues of DV in their sermons and other contact groups with family and friends, to influence positive ways of assisting survivors and promote help-seeking from various formal systems. At the structural level, RTCLs can be involved in lobbying the State to follow through on the prescriptions of the legislation, by insisting for example that the appropriate budgetary allocations are made so that services that are required to make the Act effective; available; sensitive;

---

54 Parenzee, P. (2001). While women wait: 10-13.

55 Artz, L. (2004). "Better safe than sorry: Magistrates' views on the Domestic Violence Act". SA Crime Quarterly, 75(7), 1-18.

Parenzee, P. (2001). While women wait.

<sup>56</sup> Parenzee, et al. (2001). "Monitoring the

57 Artz, L. (1999). Violence against women

58 Artz, L. (1999). Violence against women

Dawood, S., Foster, D., Foster, L., & Manjoo, R. (1999). Violence against women: An exploratory study on the impact of the justice system on victims/survivors of domestic violence. East London, RSA: Masimanyane Women's Support Centre.

Bowman et al. (2013). Protecting Survivors

59 Parenzee, et al. (2001). "Monitoring

<sup>60</sup> (Jewkes et al., (1999); He must give me

Liang, B., Goodman, L., Tummala-Nara, P., & Weintraub, S. (2005). A theoretical framework for understanding help-seeking processes among survivors of intimate partner violence. *American Journal of Community Psychology*, 30(1/2), 71-84.

Meyer et al., (2007). Assessment of

accessible; and user-friendly for victims. Hence, the DVA is not meant to stand alone, but be part of a package of services to ensure women are helped physically, psychologically and financially with abuse. It is clear that legislation in and of itself is not enough since it provides a reactive response to experiences of DV, both in the application for a PO and the required response to it. Hence legislation alone is enough to deal with a complex social phenomenon such as DV, rather it is one available option that can be enhanced through RTCL support for survivors negotiating the system. Numerous other strategies are required to prevent, curb and intervene in DV<sup>61</sup>, since this option is a last resort response for desperate survivors. Attitudinal change and the support of powerful systems, like RTCLs are required to facilitate the protection of women. RTCL provide an important opportunity for making a difference since they are already present and active in communities, have a strong voice and are incredibly influential in the lives of people. RTCL's need to be a safe places for survivors of gender based violence, as this is what their congregations require of them.

#### ACKNOWLEDGEMENTS

The author would like to thank the Rhodes Trust, Oppenheimer Memorial Trust, NRF South Africa, and CODESRIA for financial support. Thanks also to my supervisors Prof. Patel and Prof. Beinart and all my family, friends and colleagues who supported me through this process

#### BIBLIOGRAPHY

Artz, A., Dangor, Z., Foster, L., Hasserlerharm, M., Manjoo, R., & Musaba, E. (1998). "Focus: Violence against women Masimanyane women's support center". East London: *NGO Shadow Report to CEDAW*. P.18

Artz, L. (2004). "Better safe than sorry: Magistrates' views on the Domestic Violence Act". *SA Crime Quarterly*, 75(7), 1-18.

Artz, L., & Smythe, D. (2007). Case attrition in rape cases: A comparative analysis. *South African Journal of Criminal Justice*, 20(2), 158-181.

Artz, L. (2011). "Fear or Failure? Why Victims of Domestic Violence Retract from the Criminal Justice Process". *South African Crime Quarterly*, 37, pp.3-10.

Bowman, S., Dey, K., Meltz, T.R., Rangasami, J., Williams, J. (2013). Protecting Survivors of Sexual Offenses: Legal Obligations on the State with Regard to Sexual Offences. The Women's Legal Centre <http://www.shukumisa.org.za/wp-content/uploads/2010/11/Protecting-Survivors-of-Sexual-Offences-Legal-Obligations-of-the-State-with-Regrd-to-Sexual-Offences.pdf>

Burgess-Proctor, A. (2008). *Understanding the help-seeking decisions of marginalized battered women* (Unpublished doctoral dissertation). Michigan State University, East Lansing, MI.

Campbell, J., Webster, D., Kozoi-Mclain, J., Campbell, D., Curry, M., Gary, F., Glass, N., McFarlane, J., Sachs, C., Sharps, P., Ulrich, Y., Wilt, S., Manganello, J., Xu, X., Schollenberger, J., Frye, V., & Laughon, K. (2003). Risk factors for femicide in abusive relationships: Results from a multisite case control study. *American Journal of Public Health*, 93(7), 1089-1097.

Deepan, P. (2015). Transforming Masculinities: An evidence-based approach to work with faith communities on gender and masculinities. *SVRI Forum 2015*. Stellenbosch

Gould, C. (2011, September 9). Gender and violence disappears in the stats. *Sunday Times*.

---

<sup>61</sup> Rasool, (2011). Help-seeking

Dawood, S., Foster, D., Foster, L., & Manjoo, R. (1999). Violence against women: An exploratory study on the impact of the justice system on victims/survivors of domestic violence. East London, RSA: Masimanyane Women's Support Centre.

Domestic Violence Act, No. 116 (1998). Government Gazette: Pretoria

[Frahm-Arp, M. \(2015\) "Surveillance and Violence against Women in Grace Bible Church and the Zionist Christian Church" \*Journal of Gender and Religion\* details for this edition](#)

Hochfeld, T. (1995). *Jewish family doctors as a support system for abused women: Can they be relied on?* (Unpublished honours research report). University of Witwatersrand, Johannesburg.

Hoff, L. (1989). *People in crisis: Understanding and helping* (3rd ed.). Redwood City: Addison-Wesley.

Jewkes, R., Penn-Kekana, L., Levin, J., Ratsaka, M., & Schriber, M. (1999). "He must give me money, he mustn't beat me": Violence against women in three South African Provinces. Pretoria: Medical Research Council.

Jewkes, R., & Abrahams, N. (2002). The epidemiology of rape and sexual coercion in South Africa: An overview. *Social Science and Medicine*, 55(7), 1231-1244.

Kushner, M. G., & Sher, K. J. (1991). The relation of treatment fearfulness and psychological service utilization: An overview. *Professional Psychology: Research and Practice*, 22(3), 196-203.

Le Roux, E; Lele, U.; Sandilands, M. (2015) Engaging with faith groups to prevent violence against women and girls in conflict affected communities: A three-year tracking of 15 communities in the Orientale Province, DRC (Initial Findings). *SVRI Forum 2015*. Stellenbosch.

Liang, B., Goodman, L., Tummala-Nara, P., & Weintraub, S. (2005). A theoretical framework for understanding help-seeking processes among survivors of intimate partner violence. *American Journal of Community Psychology*, 30(1/2), 71-84.

Lockley, P. (1999). *Counselling women in violent relationships*. London: Free Association Books.

Machisa, M., Jewkes, R., Lowe-Morna, C., & Rama, K. (2011). *The war at home: Gender based violence indicators project*. Johannesburg: Gender Links.

Macy, R., Nurius, P., Kernic, M., & Holt, V. (2005). Batterer women's profiles associated with service help-seeking efforts: Illuminating opportunities for intervention. *Social Work Research*, 29(3), 137-150. p.146.

Mathews, S. & Abrahams, N., (2001) "Combining Stories and Numbers: An Analysis of the Impact of the Domestic Violence Act (No.116 of 1998) on Women". The Gender Advocacy Programme & The Medical Research Council (Gender & Health Research Group): Cape Town. 2-3  
Anecdotal evidence from discussions with shelter workers and managers.

Mistry, D. (2000). "The dilemma of case withdrawal: Policing in the 'new' South Africa". *British Criminology Conference*, Selected Proceedings, Volume 3. Retrieved from <http://www.britisocrim.org/volume3/008.pdf>

Meintjes, S. (2003) "The Politics of Engagement: Women Transforming the Policy Process – Domestic Violence Legislation in South Africa" in Goetz, AM; Hassim, S (Ed). *No Shortcuts to Power: African Women in Politics and Policy Making*. David Phillips: Cape Town. 153

Meyer, L., McConnell, J., Fensham, L., Groth, L., Jansen, R., & Phillips, V. (2007). *Assessment of the Implementation of the Domestic Violence Act and its effects on the lives of women seeking protection orders: A study of abused women at four courts in eThekweni*. Pretoria: Lawyers for Human Rights.

Motsei, M. (1993). *Detection of battering in healthcare settings: The case of Alexandra Health Clinic* (Paper 30). Johannesburg: Department of Community Health, University of Community Health.

Mpumalanga Community Safety, Security and Liaison (29 November 2014), "MEC Vusi Shongwe discourages withdrawal of domestic violence cases." South African Government : Mpumalanga, Retrieved from <http://www.gov.za/withdrawal-domestic-violence-cases-exacerbates-women-and-children-abuse-mec-shongwe>

Parenzee, P. (2001). While women wait: Monitoring the Domestic Violence Act. *Nedbank ISS Crime Index*, 5(3), 10-13

Parenzee, P., Artz, L., and Mout, K. (2001). "Monitoring the Implementation of the Domestic Violence Act: First Report". Institute of Criminology, University of Cape Town: South Africa.

Potgieter, S; Gabriel, E. (2015). Child Abuse and the Church as a Service Provider. *SVRI Forum 2015*. Stellenbosch.

Prevention of Family Violence Act, No. 133 (1993). Government Gazette: Pretoria.

Rasool, S. (1995). *Women abuse: Knowledge, attitudes and practices of medical general practitioners in the Lenasia area* (Unpublished honours dissertation). University of Witwatersrand, Johannesburg.

Rasool, S. (1999). "The new Domestic Violence Act: Responding to survivors' needs". *Nedbank ISS Crime Index*. 3( 5.)

Rasool, S; Vermaak, K; Pharoah, R; Louw, A, Stavrou, A. (2002) *Violence against Women: A National Survey*. Institute for Security Studies: Pretoria

Rasool, S., & Hochfeld, T. (2005). Across the public/private boundary: Contextualising domestic violence in South Africa. *AGENDA*, 66, 2-15.

Rasool, S. (2011). *Help-seeking by Abused Women in South Africa*. Dissertation. United Kingdom: University of Oxford.

Rasool, S. 2012. "Do we accept the unacceptable? The privatisation of women abuse by informal networks in South Africa". *Journal of Gender and Religion in Africa*. 18, 2, December, 143-149.

Rasool, S. (2015). "The influence of social constructions of family on abused women's help-seeking after domestic violence". *South African Review of Sociology*. In process.

Sharps, P., Koziol-McClain, J., Campbell, J., McFarlane, J., Sachs, C., & Xu, X. (2001). Healthcare providers' missed opportunities for preventing femicide. *Preventative Medicine*, 33, 373-380.

Usdin, S; Cristofides, N.; Malepe, L; Maker, A (Nov., 2000). Reproductive Rights, Advocacy and Changing the Law, *Reproductive Health Matters*, 8,16, 55-65

Vetten, L. (1996). *Man shoots wife: Intimate femicide in Gauteng*. Johannesburg: Centre for the Study of Violence and Reconciliation. Retrieved from <http://womensnet.org.za/pvaw/understand/manshoots.htm>

Vetten, L., Schneider, V. (2006). *Going somewhere slowly? A comparison of the implementation of the Domestic Violence Act (no. 116 of 1998) in an urban and semi-urban site*. CSV: Johannesburg.

Vetton, L., (2009). *Domestic Violence Act implementation: 10 year review*. Tshwaranang Legal Advocacy Centre & Gender Advocacy Programme (GAP): Report to Women in the Presidency, Johannesburg. <https://pmg.org.za/committee-meeting/10786/>

WHO. (2005). *Multi-country study on women's health and domestic violence against women*. Geneva: World Health Organization.